

- continue to develop numeric nutrient criteria that clearly identify nutrient levels that are consistent with a state, tribe or territory's uses of its waters under the Clean Water Act (CWA) and serve as clear guides for protecting and restoring those uses for its citizens.

The EPA notes that in setting long-term priorities for their CWA Section 303(d) Programs, 45 states identified nutrient-related pollution as a priority to be addressed by TMDLs and/or alternative restoration plans.⁸ To date, more than 8,600 nutrient-related TMDLs have been established, primarily by states, to guide nutrient reduction efforts in more than 5,800 waterbodies, including 1,800 nutrient-related TMDLs established for more than 1,200 waterbodies since 2011.⁹

Reducing Point Sources of Nutrient Pollution

An important tool under the CWA continues to be issuing NPDES permits for point sources that limit nutrient discharges into priority waters. States have set end-of-pipe limits and used innovative approaches (e.g., trading) to reduce nutrient loads. Signs of progress include: 34 percent of the nation's 4,420 major individual wastewater treatment facilities that have numeric nitrogen and/or phosphorus limits, and 63 percent have nitrogen and/or phosphorus monitoring requirements.¹⁰ The EPA will work with states to move towards the goal of including monitoring requirements for both total nitrogen and total phosphorus in NPDES permits for major municipal wastewater facilities.

To support states and their communities, the EPA will survey municipal wastewater treatment plants across the country to assess how efficiently conventional secondary treatment plants remove nutrients and how nutrient removal can be improved with enhancements to operations and maintenance. States and communities may be able to use this information to cost-effectively reduce nutrient loads from some POTWs. The EPA will continue to document community successes in reducing nutrient pollution using low-cost approaches that, in some cases, have reduced their energy bills.

Reducing Nutrient Loads from Nonpoint Sources

Nonpoint sources play a substantial role in nutrient pollution in many watersheds, making watershed-based approaches at the state and local level – including those addressing nutrient pollution from agriculture and stormwater sources – critically important to addressing nutrient pollution. EPA, for its part, will continue to support state efforts with its \$165 million per year grant program under section 319 of the Clean Water Act, which, since 2011, has funded more than 1,100 projects to reduce agricultural nutrient losses and improve or replace onsite disposal (septic) systems.

Agriculture is an important contributor to nutrient pollution in many watersheds and can and should play a key role in addressing this challenge, through the implementation of cost-effective best management and soil conservation practices. EPA recognizes the importance of USDA's work to support the adoption of conservation systems through its national conservation programs and its initiatives,

⁸Information provided by states to support reporting under EPA's new 303(d) program performance measure. U.S. Environmental Protection Agency, Office of Water, Water Quality Assessment and TMDL Information (ATTAINS) database. Data retrieved on November 4, 2015.

⁹U.S. Environmental Protection Agency, Office of Water, Water Quality Assessment and TMDL Information (ATTAINS). [Online] Available at: <http://www.epa.gov/waterdata/assessment-and-total-maximum-daily-load-tracking-and-implementation-system-attains>. [Accessed 23 May 2016].

¹⁰ Source: U.S. Environmental Protection Agency's Integrated Compliance Information System- National Pollutant Discharge Elimination System (ICIS-NPDES). Data retrieved on February 5, 2016; as of this date, not all state permit data have been entered into ICIS.

including the innovative Regional Conservation Partnership Program (RCPP) and geographic initiatives for the Mississippi River Basin, Chesapeake Bay, Great Lakes and other regions. EPA and state water quality agencies will continue to collaborate with USDA's Natural Resources Conservation Service (NRCS) on the National Water Quality Initiative (NWQI), which is reducing nutrients, sediment and animal agriculture-related pathogens in more than 250 small watersheds across the country and helping to foster broader collaboration between NRCS and state water quality agencies.

EPA will continue to collaborate with stakeholders in the agricultural sector and urges an acceleration of efforts in this area. One example of promising recent work is a partnership of pork and dairy producers, USDA, EPA and others on the "Nutrient Recycling Challenge," a competition to develop affordable technologies that recover nutrients from livestock manure and generate products that make beneficial use of nutrients and reduce nutrient losses. EPA is also collaborating with partners in the agricultural industry to train certified crop advisors on high impact conservation practices and systems that reduce nutrient losses. Agricultural stakeholders can also play an important role in watershed partnership efforts to reduce nutrient pollution, as they are, for example, in Cedar Rapids, Iowa, through the Middle Cedar Partnership RCPP project, where the city is working with local conservation partners, farmers and landowners to install practices to address increasing nitrates and flood events in the Cedar River. EPA recognizes that the growing interest of private entities in sustainability of their supply chains has the potential to reduce nutrient loads.

Continued Progress on Developing Nutrient Criteria

Strengthening water quality standards to address nutrient-impaired waterbodies is one important tool for meeting clean water goals. EPA continues to advocate the benefits of adopting numeric nutrient criteria because they provide measurable water quality-based goals that are easier to implement than the narrative criteria statements in many state water quality standards. To date, 28 states, territories and one tribe have adopted numeric criteria into their water quality standards for nitrogen and/or phosphorus for one or more of their water bodies.¹¹ Since 2005, EPA's Nutrient Scientific Technical Exchange Partnership and Support Program (N-STEPS) has provided 30 states with technical assistance for development of numeric criteria for nutrient pollution, including development of numeric translators that can be used in the near term to implement state narrative nutrient criteria. EPA will continue to strongly encourage and support states and tribes as they develop numeric nutrient criteria and numeric translators for the narrative standards and will continue to track progress towards adoption of numeric nutrient criteria into water quality standards.

Financial Assistance, Including for Incremental Actions Focused on Public Health Risks

OW will continue to make assistance available through the Clean Water Act Section 106 and 319 grant programs and through infrastructure assistance via the State Revolving Loan Fund Programs. Other sources of funding include Section 604(b) planning grants, Wetland Program Development grants and geographically-targeted funding for the Chesapeake Bay, Great Lakes and other great water bodies. OW will continue its long-standing technical assistance, via the N-STEPS program, to support states' development and adoption of numeric nutrient criteria in water quality standards.

¹¹ U.S. Environmental Protection Agency, Office of Water, State Development of Numeric Criteria for Nitrogen and Phosphorus Pollution. Available at <https://www.epa.gov/nutrient-policy-data/state-development-numeric-criteria-nitrogen-and-phosphorus-pollution> [accessed June 23, 2016].

Responding to the growing evidence of threats to human health, OW will use FY 16 resources to make an additional \$600,000 in technical assistance available for five to ten projects proposed by states or tribes to help them and their partners advance their planning or implementation of multi-stakeholder projects to reduce threats to public health from nitrates in sources of drinking water and from nitrogen and phosphorus pollution contributing to harmful algal blooms. Our experience shows that projects that focus on a defined, small watershed area, that address all sources of contamination, that have active local community involvement and that combine resources from multiple partners and stakeholders are most likely to be successful. We envision the modest resources we are offering could help meet a key technical assistance need for such a project and help EPA show the value of such projects and collaborative efforts for reducing threats that nutrient pollution pose to public health and water quality.

Transparency and Accountability

Documentation of areas in need of more attention as well as progress are critical to success of all of the efforts described above. The EPA encourages all states to be accountable to the public for their work on nutrient pollution. The EPA is collaborating with the Association of Clean Water Administrators as they work with their members to document state progress. As noted above, through our Regional offices EPA will work with states to highlight high priority, incremental actions they intend to take to address nutrient pollution going forward. The EPA will issue biennial reports that assess progress, prioritize action as needed, and provide accountability for addressing the nutrient pollution challenge with the urgency and sustained commitment it warrants.

The EPA will continue to document the extent and severity of nutrient pollution and algal toxins in its national and broad regional statistical surveys and continue to support state and tribal monitoring programs that document state-scale conditions and the status of individual waters. Recent advances in nutrient sensors and advanced monitoring technologies will help to track progress.

Need for Further Action

Given the scope and tremendous environmental and economic impacts of nutrient pollution on public health and water quality, it is critical that all of us renew our commitment and accelerate our efforts to address this challenge. The EPA looks forward to dialogue with states on renewed engagement, continued collaboration, and expansion of meaningful partnerships to help us meet this priority challenge; and to working together to ensure public transparency and accountability in this ongoing effort.

cc: Regional Administrators
Regional Water Division Directors
Office of Water Office Directors
ECOS Executive Director
ACWA Executive Director

To: Rosemary Hambright[rehambright@email.wm.edu]; ryan.fitzpatrick@dot.gov[ryan.fitzpatrick@dot.gov]; Alice Kaswan[kaswan@usfca.edu]; Patrice Simms[profsimms@earthlink.net]; Patrice Simms[psimms@law.howard.edu]; Henderson, Lenneal[ljhend@wm.edu]; Erica Holloman[Ex. 6 - Personal Privacy] Virginia Ruiz[vruiz@farmworkerjustice.org]; Walker, Mike[Walker.Mike@epa.gov]; Nicky Sheats[nsheats@tesc.edu]; Andrea Simpson[asimpson@richmond.edu]; Sharonda Williams-Tack[sharonda.williams-tack@sierraclub.org]; Maryann Nolan[Ex. 6 - Personal Privacy] Upasana Khatri[upasana@earthrights.org]; Jesse Worker[jworker@wri.org]
Bcc: Walter, Simone[walter.simone@epa.gov]; Lewis, Sheila[Lewis.Sheila@epa.gov]; Tejada, Matthew[Tejada.Matthew@epa.gov]; Robinson, Victoria[Robinson.Victoria@epa.gov]
From: Gogal, Danny
Sent: Tue 3/1/2016 12:35:01 PM
Subject: EJ Tools, Developments and EJ in Action Blog

Dear Panelists for the W&M Law Symposium on EJ:

Thank you and congratulations again to Rosemary and her colleagues for hosting a successful law symposium on EJ. It was a pleasuring meeting you all and hearing about your work and experiences in addressing EJ concerns. Given the interest that each of you have in EJ, I am sharing the following information with you.

1. EJSCREEN – an environmental justice (EJ) mapping and screening tool based on nationally consistent data and an approach that combines environmental and demographic indicators in maps and reports. The tool includes EJSCREEN includes 12 environmental indicators, 6 demographic indicators, and 12 EJ indexes. <https://www.epa.gov/ejscreen/what-ejscreen>
2. EPA's EJ 2020 Action Agenda – the next five year strategy on EJ being developed by the Agency to focus on making a visible difference in communities, through partnerships with key stakeholders, will be coming out soon for public comment. Background information can be found at: <http://www3.epa.gov/environmentaljustice/ej2020/index.html>
3. Federal Interagency Working Group on Environmental Justice (EJ IWG) created its three year plan to seeks to advance greater federal agency collaboration to improve the quality of life and to expand economic opportunity in overburdened and under-resourced communities. The EJ IWG's *Action Agenda Framework* can be found at: <http://www3.epa.gov/environmentaljustice/resources/publications/interagency/fy18-action-agenda.pdf>
4. EJListserv – EPA's tool for getting information and notices of key events to those interested in EJ. If interested in receiving these notices (which will include the opportunity to comment on the EJ 2020 Action Agenda) please go to the following link: https://lists.epa.gov/read/all_forums/subscribe?name=epa-ej
5. EJ in Action Blog – EPA's blog for sharing the work and experiences of those who are making a visible difference in vulnerable communities. I encourage each of you to consider

writing a blog post about your work since all of you have experiences and approaches that others could benefit from knowing about. The posts should be around 600 words. Please let me know if you are interested. The blog can be found at:
https://blog.epa.gov/blog/category/environmental_justice/

Once again, it was a pleasure meeting you all and I hope we have the opportunity to see each other again and perhaps work together to advance EJ.

Thank you,

Danny

Daniel E. Gogal

Senior Environmental Protection Specialist
Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

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From: Rosemary Hambright [mailto:rehambright@email.wm.edu]
Sent: Wednesday, February 24, 2016 10:54 AM
To: ryan.fitzpatrick@dot.gov; Gogal, Danny <Gogal.Danny@epa.gov>; Alice Kaswan <kaswan@usfca.edu>; Patrice Simms [Ex. 6 - Personal Privacy]; Patrice Simms <psimms@law.howard.edu>; Henderson, Lenneal <ljhend@wm.edu>; Erica Holloman [Ex. 6 - Personal Privacy] Virginia Ruiz <vrui@farmworkerjustice.org>; Walker, Mike <Walker.Mike@epa.gov>; Nicky Sheats <nsheats@tesc.edu>; Andrea Simpson <asimpson@richmond.edu>; Sharonda Williams-Tack <sharonda.williams-tack@sierraclub.org>; Maryann Nolan [Ex. 6 - Personal Privacy] Upasana Khatri <upasana@earthrights.org>; Jesse Worker <jworker@wri.org>
Subject: Last Minute Notes About the ELPR Symposium on Friday

Hello everyone!

I just wanted to go over some last minute details.

- A private donor purchased wine for us to enjoy at the dinner on Thursday night.
- If you are driving, the address for GPS is 613 S Henry St, Williamsburg, VA 23185.
- If you have any problems finding parking or anything at all, please feel free to call me at 409-550-3057. I will have my phone with me all day.
- Please go to the check-in table when you arrive at the law school to receive your name tag and your folder. Everyone's folder will contain a hard copy of (1) the W-9 for for travel and lodging reimbursement and (2) the release form to allow the school accountant to accept the reimbursement for you in order to mail you a check. The only person I currently have both of these forms from is Patrice (I also have Dr. Sheats's release form). Please fill both of them out and give them to your student moderator before you leave the school so we can have all of our copies in one place. You will mail the accounting office your original gas receipts (we pay for your return home), as well as hotel and train receipts if you do not bring them to the symposium.
- If anyone has any bags they would like to leave in a secure room, you may use the ELPR office in the basement of the library. The students at the check-in table can escort you there and punch in the code to open the door.
- Please aim to be at the school 20 to 30 minutes before your panel begins. If you forgot what time your panel starts, please ask me.
- We'll have 2 students live tweeting during the symposium from these twitter accounts: @SEALS_WM and @VACoastalPolicy using the hashtag #JusticeForAll, so don't be offended if you see some students furiously typing away at their computers. We'll be picking a random person who tweets on Friday with the hashtag #JusticeForAll to receive a small prize after the 4th panel. If you or your organization has a Twitter account you'd like for them to mention, please send me those Twitter handle names.
- Before you leave the law school, we would appreciate it if you remember to return your name tag to us so we can reuse the clear plastic part in the future.
- Thank you again for your participation, and I'm really looking forward to seeing everyone!

Rosemary

--

Rosemary E. Hambright

Symposium Editor, *William & Mary Environmental Law and Policy Review*

William & Mary Law School, J.D. expected 2016

Washington and Lee University, B.A. in environmental studies and English 2011

(409) 550-3057 | rehambright@email.wm.edu

To: Rosemary Hambright[rehambright@email.wm.edu]
Cc: Alice Kaswan[kaswan@usfca.edu]; ryan.fitzpatrick@dot.gov[ryan.fitzpatrick@dot.gov]; Patrice Simms[profsimms@earthlink.net]; Erica Holloman[Ex. 6 - Personal Privacy] Virginia Ruiz[vruiz@farmworkerjustice.org]; Walker, Mike[Walker.Mike@epa.gov]; Nicky Sheats[nsheats@tesc.edu]; Andrea Simpson[asimpson@richmond.edu]; Sharonda Williams-Tack[sharonda.williams-tack@sierraclub.org]; Maryann Nolan[Ex. 6 - Personal Privacy] Upasana Khatri[upasana@earthrights.org]; Jesse Worker[jworker@wri.org]; ljhend@wm.edu[ljhend@wm.edu]; Ross Natividad[rdsnatividad@email.wm.edu]
From: Gogal, Danny
Sent: Sat 2/6/2016 9:59:18 PM
Subject: Re: Do you consent to the ELPR symposium being filmed?

No problem for me. Danny

Daniel E. Gogal
Senior Environmental Protection Specialist
Tribal and Indigenous Peoples Program Manager
EPA Lead for International Human Rights Agreements

Office of Environmental Justice, USEPA
MC (2201-A)
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(202) 564-2576

On Feb 6, 2016, at 1:00 PM, Rosemary Hambright <rehambright@email.wm.edu> wrote:

Hello everyone,
ELPR is interested in filming the upcoming symposium and hosting it online. We can only do this if every speaker consents and signs the attached form by February 23rd (72 hours before the symposium). If anyone objects to being recorded, we won't record any part of the event.

Please let me know either way. I'm attaching the release form.

Thank you,
Rosemary

--

Rosemary E. Hambright
William & Mary Law School, Class of 2016
Symposium Editor, *William & Mary Environmental Law and Policy Review*

<Lecture Release.doc>

To: Danny Gogal[Gogal.Danny@epa.gov]
Bcc: ilana.solomon@actionaid.org[ilana.solomon@actionaid.org];
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From: Gogal, Danny

Sent: Wed 7/27/2016 6:56:20 PM

Subject: Invitation - Civil Society Consultation on Implementation of UPR Recommendations - August 17 - Working Group 3

[2016 WG3 Consultation Invitation.docx](#)

[UPR and CORs \(2016 WG3 Consultation\) \(2\).pdf](#)

[UPR-Fact-Sheet-20160415.pdf](#)

The federal interagency Universal Periodic Review Working Group 3 invites you to participate in a civil society consultation with representatives from various federal agencies on August 17, 2016 from 10am–4pm in the Brooke-Mondale Auditorium at the U.S. Department of Housing and Urban Development (HUD), located at 451 7th St SW, Washington, DC 20410. The first part of the consultation will be webcast for those who are unable to attend in person.

The consultation will focus on the recommendations supported in whole or in part by the United States as part of its 2015 Universal Periodic Review, and related recommendations received by the United States from UN human rights treaty bodies, on the following topics assigned to Working Group 3 and Working Group 1: Economic, Social, Cultural Rights, Indigenous Issues and the Environment, and Civil Rights and Discrimination not related to Law Enforcement. The consultation will be a one-day consultation consisting of panels in the morning and breakout sessions in the afternoon on topics related to the recommendations covered by Working Group 3 and certain recommendations covered by Working Group 1.

Attached are the invitation (which includes due dates for registration), the list of UPR recommendations, and a Fact Sheet on the UPR. Below is the agenda for the consultation.

TIME	EVENT	DETAILS
10am – 10:15am	Introductory Remarks	Guest speaker
10:15am – 11:45am	The Consultation Process and Civil Society Q/A	WG3 Leaders will discuss the updated consultation process and the upcoming work schedule of future WG3 consultations. Civil Society will have an opportunity to provide statements and recommendations on further enhancing the consultation process.
11:45am – 12pm	Break	
12pm – 1:30pm	Inter-agency Panel	Agencies will discuss some of the work that relates to the recommendations
1:30pm – 2:30pm	Lunch	
2:30pm – 4pm	Breakout Sessions	Facilitated breakout discussions on (i) non-discrimination; (ii) environment; (iii) Indigenous issues; and (iv) economic/social/cultural rights between the Government and civil society.

Please share this information with anyone who you think would be interested. Feel free to contact me if you have any questions.

Thank you,

Danny

Daniel E. Gogal

Senior Environmental Protection Specialist
Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

Office of Environmental Justice, USEPA
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1200 Pennsylvania Avenue, NW
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(202) 564-2576, (202) 501-0740 - Fax

-

To: Abby Robinson[arubinson@earthjustice.org]
From: Gogal, Danny
Sent: Tue 8/26/2014 6:16:32 PM
Subject: RE: Agenda for UPR Environmental Issues - Planning Conference Call - August 27, 1:00 - 2:00 ET

Will do Abby. I have not sent it out yet.

Thanks,

Danny

Daniel E. Gogal

Senior Environmental Protection Specialist
Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

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From: Abby Robinson [mailto:arubinson@earthjustice.org]
Sent: Tuesday, August 26, 2014 2:01 PM
To: Gogal, Danny
Subject: Agenda for UPR Environmental Issues - Planning Conference Call - August 27, 1:00 - 2:00 ET

Dear Danny:

I plan to call in to this meeting tomorrow on behalf of Earthjustice.

I saw that you are planning to send an agenda around before the call.

Could you please include me on that email (or email me the agenda if you've already sent it around)?

Many thanks,

Abby

From: Gogal, Danny [<mailto:Gogal.Danny@epa.gov>]

Sent: Tuesday, August 05, 2014 10:12 AM

To: Gogal, Danny

Subject: UPR Environmental Issues - Planning Conference Call - August 27, 1:00 - 2:00 ET

Greetings:

The U.S. Environmental Protection Agency invites you to participate on a call with federal agencies to discuss the agenda for the upcoming consultation relating to the U.S. Government's (USG) work on environmental issues as part of its follow up to the 2010 United Nations Universal Periodic Review (UPR). **The call will take place on Wednesday, August 27, 2014, from 1 p.m. to 2:00 p.m. (ET). Please use the following information to access the call: conference phone number**

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

This call is part of a larger effort by the Obama Administration to engage stakeholders after the 2010 review. The UPR is a process through which the human rights record of each United Nations (UN) member is reviewed. As part of the UPR, each UN member is encouraged to engage relevant stakeholders, including non-governmental organizations, to discuss issues related to the review. The USG has held a number of meetings to engage stakeholders about a variety of issues raised during the 2010 review. The USG held a consultation on environmental issues via conference call last year on July 18, 2013.

In preparation for the USG public meeting, scheduled for October 7, at the University of California, School of Law, in Berkeley, California, we are seeking your input for the meeting agenda. The goal of this meeting is to follow up on the recommendations which the USG supported in whole or in part during the 2010 UPR, and to provide the public an additional opportunity to engage federal agencies on these issues.

Please note that individuals who plan to provide comments during the October 7 USG public meeting on UPR environmental issues will be asked to submit their comments in writing by Tuesday, September 9. Commenters will be limited to 2 minutes each in order to provide the opportunity for the maximum number of people to offer comments.

We will provide you with an agenda for the August 27 call prior to the meeting. If you have any questions or comments, you may contact me at (202) 564-2576, or gogal,danny@epa.gov. For more information about the UPR process, please visit <http://www.state.gov/j/drl/upr/index.htm>.

Sincerely,

Danny Gogal, Chair

USG Environment Work Group - UPR

Daniel E. Gogal

Senior Environmental Protection Specialist
Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

Office of Environmental Justice, USEPA
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To: Danny Gogal[Gogal.Danny@epa.gov]
Bcc: andrea@treatycouncil.org[andrea@treatycouncil.org];
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 NPopovic@sheppardmullin.com[NPopovic@sheppardmullin.com];
 bparker@earthjustice.org[bparker@earthjustice.org]; ahanafi@edf.org[ahanafi@edf.org];
 jhaverkamp@edf.org[jhaverkamp@edf.org]; gsilva-chavez@edf.org[gsilva-chavez@edf.org];
 bweigle@environmentaldefense.org[bweigle@environmentaldefense.org];
 DianeT@environmentalhealth.org[DianeT@environmentalhealth.org];
 donbay@citlink.net[donbay@citlink.net]; naturalresources1@citlink.net[naturalresources1@citlink.net];
 donbay@ctaz.com[donbay@ctaz.com]; gwagner@3rivers.net[gwagner@3rivers.net];
 shamar@greenforall.org[shamar@greenforall.org];
 rolf.skar@sfo.greenpeace.org[rolf.skar@sfo.greenpeace.org]; ien@igc.org[ien@igc.org];
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 Goldtooth[ien@igc.org]; Kandi Mossett **Ex. 6 - Personal Privacy**
From: Gogal, Danny
Sent: Tue 8/26/2014 1:16:48 PM
Subject: Reminder - UPR Environmental Issues - Planning Conference Call - August 27, 1:00 - 2:00 ET

Just a quick reminder of the call planned for tomorrow, Wednesday, August 27, 1:00 – 2:00 ET, to discuss the Universal Periodic Review on Human Rights Environment Issues public meeting planned for October 7 in Berkeley, CA. The original notice of this call is below. Please let me know if you have any questions. I hope you will be able to join us for the call.

Thank you,

Danny

Daniel E. Gogal

Senior Environmental Protection Specialist
Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

Office of Environmental Justice, USEPA
MC (2201-A)
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-2576, (202) 501-0740 - Fax

From: Gogal, Danny

Sent: Thursday, August 07, 2014 11:37 AM

To: Danny Gogal

Subject: UPR Environmental Issues - Planning Conference Call - August 27, 1:00 - 2:00 ET

Greetings:

The U.S. Environmental Protection Agency invites you to participate on a call with federal agencies to discuss the agenda for the upcoming consultation relating to the U.S. Government's (USG) work on environmental issues as part of its follow up to the 2010 United Nations Universal Periodic Review (UPR). **The call will take place on Wednesday, August 27, 2014, from 1 p.m. to 2:00 p.m. (ET). Please use the following information to access the call: conference phone number**

Ex. 6 - Personal Privacy

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This call is part of a larger effort by the Obama Administration to engage stakeholders after the 2010 review. The UPR is a process through which the human rights record of each United Nations (UN) member is reviewed. As part of the UPR, each UN member is encouraged to engage relevant stakeholders, including non-governmental

organizations, to discuss issues related to the review. The USG has held a number of meetings to engage stakeholders about a variety of issues raised during the 2010 review. The USG held a consultation on environmental issues via conference call last year on July 18, 2013.

In preparation for the USG public meeting, scheduled for October 7, at the University of California, School of Law, in Berkeley, California, we are seeking your input for the meeting agenda. The goal of this meeting is to follow up on the recommendations which the USG supported in whole or in part during the 2010 UPR, and to provide the public an additional opportunity to engage federal agencies on these issues.

Please note that individuals who plan to provide comments during the October 7 USG public meeting on UPR environmental issues will be asked to submit their comments in writing by Tuesday, September 9. Commenters will be limited to 2 minutes each in order to provide the opportunity for the maximum number of people to offer comments.

We will provide you with an agenda for the August 27 call prior to the meeting. If you have any questions or comments, you may contact me at (202) 564-2576, or gogal,danny@epa.gov. For more information about the UPR process, please visit <http://www.state.gov/j/drl/upr/index.htm>.

Sincerely,

Danny Gogal, Chair

USG Environment Work Group - UPR

Daniel E. Gogal

Senior Environmental Protection Specialist
Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

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From: Gogal, Danny

Sent: Tue 8/5/2014 2:12:21 PM

Subject: UPR Environmental Issues - Planning Conference Call - August 27, 1:00 - 2:00 ET

Greetings:

The U.S. Environmental Protection Agency invites you to participate on a call with federal agencies to discuss the agenda for the upcoming consultation relating to the U.S. Government's (USG) work on environmental issues as part of its follow up to the 2010 United Nations Universal Periodic Review (UPR). **The call will take place on Wednesday, August 27, 2014, from 1 p.m. to 2:00 p.m. (ET). Please use the**

following information to access the call: conference phone number

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Ex. 6 - Personal Privacy

This call is part of a larger effort by the Obama Administration to engage stakeholders after the 2010 review. The UPR is a process through which the human rights record of each United Nations (UN) member is reviewed. As part of the UPR, each UN member is encouraged to engage relevant stakeholders, including non-governmental organizations, to discuss issues related to the review. The USG has held a number of meetings to engage stakeholders about a variety of issues raised during the 2010 review. The USG held a consultation on environmental issues via conference call last year on July 18, 2013.

In preparation for the USG public meeting, scheduled for October 7, at the University of California, School of Law, in Berkeley, California, we are seeking your input for the meeting agenda. The goal of this meeting is to follow up on the recommendations which the USG supported in whole or in part during the 2010 UPR, and to provide the public an additional opportunity to engage federal agencies on these issues.

Please note that individuals who plan to provide comments during the October 7 USG public meeting on UPR environmental issues will be asked to submit their comments in writing by Tuesday, September 9. Commenters will be limited to 2 minutes each in order to provide the opportunity for the maximum number of people to offer comments.

We will provide you with an agenda for the August 27 call prior to the meeting. If you have any questions or comments, you may contact me at (202) 564-2576, or gogal,danny@epa.gov. For more information about the UPR process, please visit <http://www.state.gov/j/drl/upr/index.htm>.

Sincerely,

Danny Gogal, Chair

USG Environment Work Group - UPR

Daniel E. Gogal

Senior Environmental Protection Specialist
Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

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Ex. 6 - Personal Privacy

From: Gogal, Danny

Sent: Tue 5/6/2014 12:39:12 PM

Subject: EPA's Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples: Public Comment Period, May 5 - June 5, 2014

The U.S. Environmental Protection Agency is creating a policy to work collaboratively with tribes and indigenous peoples to address their environmental justice issues. The Agency is making available the *Revised Draft of the EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples* for public input, during the May 5 - June 5, 2014 public comment period. The EPA is seeking input on the Revised Draft of the Policy and recommendations on the implementation of the Policy.

A public outreach conference call on the Policy is scheduled for Wednesday, May 21, 12:30 - 2:00 ET. The conference call number is

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The Revised Draft of the Policy, the Notification of Public Comment Period, and additional information on the Policy can be found at: <http://www.epa.gov/environmentaljustice/indigenous/index.html>. Comments on the Policy can be sent electronically to indigenous-ej-policy@epa.gov.

Please share this message with individuals who work on tribal and/or indigenous peoples environmental and public health concerns.

Thank you,

Danny

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From: Gogal, Danny

Sent: Wed 4/29/2015 5:55:10 PM

Subject: Today's EJ 2020 Action Agenda Call and Tomorrow's Scheduled Call

Dear Indigenous Communities and Organizations Representatives:

I apologize for those of you who tried to participate in the conference call today to discuss the draft framework for EPA's EJ 2020 Action Agenda. I mistakenly called in on another number and did not realize the error until after 1:30 ET. We will have another call tomorrow, as scheduled, from 2:00 – 3:00 ET using the number originally advertised: Ex. 6 - Personal Privacy

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If you have not already done so, please visit EPA's EJ 2020 webpage to obtain a copy of the draft framework, which can be found at:

<http://www.epa.gov/compliance/environmentaljustice/ej2020/index.html>

Please let me know if you have any questions or concerns.

Thank you,

Danny

Daniel E. Gogal

Senior Environmental Protection Specialist
Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

Office of Environmental Justice, USEPA

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1200 Pennsylvania Avenue, NW
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(202) 564-2576, (202) 501-0740 - Fax

To: Gogal, Danny[Gogal.Danny@epa.gov]
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 'nwalker@ehumanrights.org'['nwalker@ehumanrights.org']; jtorres@cocef.org[jtorres@cocef.org];
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 donbay@citlink.net[donbay@citlink.net]; 'naturalresources1@citlink.net'['naturalresources1@citlink.net'];
 donbay@ctaz.com[donbay@ctaz.com]; 'gwagner@3rivers.net'['gwagner@3rivers.net'];
 'shamar@greenforall.org'['shamar@greenforall.org']; 'ien@igc.org'['ien@igc.org'];
 'bgreenberg@interaction.org'['bgreenberg@interaction.org']; **Ex. 6 - Personal Privacy**
 'Maggie_Bruns@lcv.org'['Maggie_Bruns@lcv.org'];
 'richardm@meyeranalytics.com'['richardm@meyeranalytics.com'];
 'wanderson@mvdsl.com'['wanderson@mvdsl.com'];
 'washingtonbureau@naacpnet.org'['washingtonbureau@naacpnet.org'];
 'jpata@ncai.org'['jpata@ncai.org']; 'tedgar@nccecojustice.org'['tedgar@nccecojustice.org'];
Ex. 6 - Personal Privacy 'bramble@nwf.org'['bramble@nwf.org'];
 'jschmidt@nrdc.org'['jschmidt@nrdc.org']; 'rcortez@tnc.org'['rcortez@tnc.org'];
 'adeutz@tnc.org'['adeutz@tnc.org']; 'jgastelumendi@tnc.org'['jgastelumendi@tnc.org'];
 'patodian@pewclimate.org'['patodian@pewclimate.org'];
 'gbrown@pewtrusts.org'['gbrown@pewtrusts.org']; 'kopp@rff.org'['kopp@rff.org'];
 'voigt@rff.org'['voigt@rff.org']; 'leslie.fields@sierraclub.org'['leslie.fields@sierraclub.org'];
 'dave.hamilton@sierraclub.org'['dave.hamilton@sierraclub.org']; 'Pete.erickson@sei-us.org'['Pete.erickson@sei-us.org']; **Ex. 6 - Personal Privacy**
 'gsheldon@wcs.org'['gsheldon@wcs.org']; 'jmorgan@wri.org'['jmorgan@wri.org'];
 'jsawin@worldwatch.org'['jsawin@worldwatch.org']; **Ex. 6 - Personal Privacy**
 'naacp@naacpdc.org'['naacp@naacpdc.org']; 'colin@ejcw.org'['colin@ejcw.org'];
Ex. 6 - Personal Privacy
 'omar.carrillo@communitywatercenter.org'['omar.carrillo@communitywatercenter.org'];
 'vern@cal.net'['vern@cal.net']; **Ex. 6 - Personal Privacy**
 'kathy@fcnl.org'['kathy@fcnl.org']; **Ex. 6 - Personal Privacy**
Ex. 6 - Personal Privacy
 billy@curyungtribe.com[billy@curyungtribe.com]; wmartel@wyoming.com[wmartel@wyoming.com];
 jalonne@weact.org[jalonne@weact.org]; pjones@uusc.org[pjones@uusc.org];
 water@southeastpeoples.org[water@southeastpeoples.org]; Lewis, Sheila[Lewis.Sheila@epa.gov]; Ali,
 Mustafa[Ali.Mustafa@epa.gov]; Tejada, Matthew[Tejada.Matthew@epa.gov]; Amanda
 McCarty[amanda.mccarty@noaa.gov]; Amanda Wall[WallAJ@state.gov]; Anne
 Kolker[KolkerAK@state.gov]; Brian Israel[IsraelBR@state.gov]; Daria Neal[daria.neal@usdoj.gov]; Filbin,
 Gerald[Filbin.Gerald@epa.gov]; Harris, Dona[Harris.Dona@epa.gov]; Ingram,
 Paige[Ingram.Paige@epa.gov]; Jefferson, Tricia[Jefferson.Tricia@epa.gov]; Julia
 Meisel[MeiselJS@state.gov]; Julianna Bentes[BentesJW@state.gov]; Karen
 Stevens[Karen.L.Stevens@usdoj.gov]; LeFranc, Maurice[LeFranc.Maurice@epa.gov]; Meredith
 Johnson[johnstonma@state.gov]; Nathan Hultman[Nathan_E_Hultman@ceq.eop.gov]; Nelson, Bruce
 R[NelsonBR@state.gov]; Richard Mannix[richard.mannix@noaa.gov]; Wilson, Eric[eric.wilson@bia.gov]
From: Gogal, Danny
Sent: Fri 9/12/2014 7:06:52 PM
Subject: Reminder - Written Comments Due Monday, September 15, 2014 for Interested Panelists -
 UPR Environmental Issues Civil Society Consultation - October 7

Greetings,

Just a quick reminder that written comments are due Monday, September 15, for those who are interested in being considered as panelists for the October 7 UPR environment issues consultation. Panelists will be given a total of ten minutes each to present their comments, so we ask that the written comments be no longer than what can be presented within a ten minute timeframe. [Please note that all other commenters will be given only 2 minutes each to comment in order to maximize the opportunity for all interested parties to provide comments, and their comments are asked to be submitted in writing by September 15 as well.] We are planning to have four panelists per session. As noted in the message sent on Monday, September 8 (below), the themes for the three sessions are:

1. Climate Change
2. Water Issues
3. Environmental/Public Health and Vulnerable Communities (Members of Vulnerable Communities)

The comments are to be submitted to UC – Berkeley Law School at:
uprenviro@law.berkeley.edu.

Please note that UC-Berkeley is coordinating the development of the panels, with input from the US Government.

I ask that you share this E-mail with others who you think would be interested in attending this consultation and providing comments.

Please contact me, Allison Davenport or Amy Utstein, both of UC – Berkeley School of Law (E-mails in the CC line), if you have any questions or concerns. We are looking forward to your participation in the consultation, either in person or by phone.

Thank you,

Danny

Daniel E. Gogal

Senior Environmental Protection Specialist
Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

Office of Environmental Justice, USEPA
MC (2201-A)
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-2576, (202) 501-0740 - Fax

From: Gogal, Danny

Sent: Monday, September 08, 2014 4:43 PM

To: Gogal, Danny

Subject: Themes for Sessions at UPR Environmental Issues Civil Society Consultation -
October 7 & Due Date for Potential Panelists' Presentations/Comments

Greetings,

Thank you to those who were able to participate in August 27 planning call for the Universal Periodic Review (UPR) Environment Issues Civil Society Consultation, which is scheduled for Tuesday, October 7, 2014, 8:30 AM - 3:00 PM at UC – Berkeley Law School, in Berkeley, CA. We received some good input on the agenda, which resulted in the development of the following tentative themes for the three separate 1 ½ hour sessions planned for the civil society consultation. The consultation will address the UPR recommendations supported in whole or in part by the United States that relate to Issue Group #8 (The Environment), as well as recent developments in the field of human rights and the environment:

1. Climate Change

2. Water Issues
3. Environmental/Public Health and Vulnerable Communities

As discussed, the sessions will include up to four non-governmental panelists, who will each be afforded ten minutes to present their comments on the session theme. After their presentations, the US Government will first seek comments from those who pre-registered to comment, then proceed to seek comments from the public attending the consultation in person, as well as from those on the phone and those who E-mail comments during the sessions. UC – Berkeley will facilitate the sessions.

We appreciate those of you who sent us potential panelists for the proposed panels. However, given the short period of time we have before the consultation, we ask that you reach out to any persons you think would be interested in serving as a panelist for any of the three sessions noted above. All interested panelists are asked to prepare and submit their written comments (to be no longer than ten minutes delivery time, about two pages) by Monday, September 15, to UC – Berkeley at the following E-mail address: uprenviro@law.berkeley.edu.

Panelists may consider addressing the following in their prepared comments:

1. Who is impacted by the concern(s) or issues(s) raised?
2. What recommendations do you have for resolving the concerns or issues, or for addressing the UPR recommendation supported in whole or in part?
3. Which agencies do you think have the authority to address the concerns or issues?

A revised agenda, with the final themes for the sessions, will be sent out electronically to all registered participants prior to the civil society consultation.

Additional information on this UPR Environment Issues Civil Society Consultation can be found at: <http://www.law.berkeley.edu/17648.htm>

Regarding notes from the UPR civil society consultations, the State Department will be

developing a summary of all of the UPR civil society meetings held, including the Environment Issues Civil Society Consultation held last year and the one planned for October 7, and will make those publicly available. However, it is not the State Department's practice to make notes from informal planning or administrative calls, like the one we had on August 27, publicly available. The summaries of the formal civil society consultations are being developed at this time and will be posted publicly.

Please let me know if you have any questions or concerns. We look forward to your participation in the October 7 UPR civil society consultation.

Danny

Daniel E. Gogal

Senior Environmental Protection Specialist
Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

Office of Environmental Justice, USEPA
MC (2201-A)
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-2576, (202) 501-0740 - Fax

From: Gogal, Danny

Sent: Wednesday, August 27, 2014 11:24 AM

To: Danny Gogal

Subject: Draft Agenda for UPR Environmental Issues Civil Society Meeting - October 7 - Planning Conference Call - August 27, 1:00 - 2:00 ET

Greetings,

Please find attached the draft agenda for the October 7 UPR Environment Issues Civil Society

meeting. We look forward to receiving your input on the agenda during today's scheduled planning call, August 27, 1:00 – 2:00 ET, conference phone number Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Please see the message below for further details.

Thank you,

Danny

Daniel E. Gogal

Senior Environmental Protection Specialist
Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

Office of Environmental Justice, USEPA
MC (2201-A)
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-2576, (202) 501-0740 - Fax

From: Gogal, Danny

Sent: Thursday, August 07, 2014 11:37 AM

To: Danny ogal

Subject: UPR Environmental Issues - Planning Conference Call - August 27, 1:00 - 2:00 ET

Greetings:

The U.S. Environmental Protection Agency invites you to participate on a call with federal agencies to discuss the agenda for the upcoming consultation relating to the U.S. Government's (USG) work on environmental issues as part of its follow up to the 2010 United Nations Universal Periodic Review (UPR). **The call will take place on Wednesday, August 27, 2014, from 1 p.m. to 2:00 p.m. (ET). Please use the following information to access the call: conference phone number** Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

This call is part of a larger effort by the Obama Administration to engage stakeholders after the 2010 review. The UPR is a process through which the human rights record of each United Nations (UN) member is reviewed. As part of the UPR, each UN member is encouraged to engage relevant stakeholders, including non-governmental organizations, to discuss issues related to the review. The USG has held a number of meetings to engage stakeholders about a variety of issues raised during the 2010 review. The USG held a consultation on environmental issues via conference call last year on July 18, 2013.

In preparation for the USG public meeting, scheduled for October 7, at the University of California, School of Law, in Berkeley, California, we are seeking your input for the meeting agenda. The goal of this meeting is to follow up on the recommendations which the USG supported in whole or in part during the 2010 UPR, and to provide the public an additional opportunity to engage federal agencies on these issues.

Please note that individuals who plan to provide comments during the October 7 USG public meeting on UPR environmental issues will be asked to submit their comments in writing by Tuesday, September 9. Commenters will be limited to 2 minutes each in order to provide the opportunity for the maximum number of people to offer comments.

We will provide you with an agenda for the August 27 call prior to the meeting. If you have any questions or comments, you may contact me at (202) 564-2576, or gogal,danny@epa.gov. For more information about the UPR process, please visit <http://www.state.gov/j/drl/upr/index.htm>.

Sincerely,

Danny Gogal, Chair

USG Environment Work Group - UPR

Daniel E. Gogal

Senior Environmental Protection Specialist
Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

Office of Environmental Justice, USEPA
MC (2201-A)
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-2576, (202) 501-0740 - Fax

To: Gogal, Danny[Gogal.Danny@epa.gov]
Bcc: ilana.solomon@actionaid.org[ilana.solomon@actionaid.org];
'mharden@ehumanrights.org'['mharden@ehumanrights.org'];
'nwalker@ehumanrights.org'['nwalker@ehumanrights.org']; jtorres@cocef.org[jtorres@cocef.org];
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'bweigle@environmentaldefense.org'['bweigle@environmentaldefense.org'];
DianeT@environmentalhealth.org[DianeT@environmentalhealth.org];
donbay@citlink.net[donbay@citlink.net]; 'naturalresources1@citlink.net'['naturalresources1@citlink.net'];
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'shamar@greenforall.org'['shamar@greenforall.org']; 'ien@igc.org'['ien@igc.org'];
'bgreenberg@interaction.org'['bgreenberg@interaction.org'];
'Maggie_Bruns@lcv.org'['Maggie_Bruns@lcv.org'];

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Ex. 6 - Personal Privacy

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'jpata@ncai.org'['jpata@ncai.org']; 'tedgar@nccecojustice.org'['tedgar@nccecojustice.org'];
'bramble@nwf.org'['bramble@nwf.org'];
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'dave.hamilton@sierraclub.org'['dave.hamilton@sierraclub.org']; 'Pete.erickson@sei-us.org'['Pete.erickson@sei-us.org'];
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'naacp@naacpdc.org'['naacp@naacpdc.org']; 'colin@ejcw.org'['colin@ejcw.org'];

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

'omar.carrillo@communitywatercenter.org'['omar.carrillo@communitywatercenter.org'];
'vern@cal.net'['vern@cal.net'];

Ex. 6 - Personal Privacy

'kathy@fcnl.org'['kathy@fcnl.org'];

Ex. 6 - Personal Privacy

pkingfisher@hughes.net[pkingfisher@hughes.net];
billy@curyungtribe.com[billy@curyungtribe.com];
jalonne@weact.org[jalonne@weact.org]; pjones@uusc.org[pjones@uusc.org]; Wilson,
Eric[eric.wilson@bia.gov]; Lewis, Sheila[Lewis.Sheila@epa.gov]; Tejada,
Matthew[Tejada.Matthew@epa.gov]; Amanda McCarty[amanda.mccarty@noaa.gov]; Amanda
Wall[WallAJ@state.gov]; Anne Kolker[KolkerAK@state.gov]; Brian Israel[IsraelBR@state.gov]; Harris,
Dona[Harris.Dona@epa.gov]; Ingram, Paige[Ingram.Paige@epa.gov]; Jefferson,
Tricia[Jefferson.Tricia@epa.gov]; Julia Meisel[MeiselJS@state.gov]; Julianna
Bentes[BentesJW@state.gov]; LeFranc, Maurice[LeFranc.Maurice@epa.gov]; Meredith
Johnson[johnstonma@state.gov]; Nathan Hultman[Nathan_E_Hultman@ceq.eop.gov]; Nelson, Bruce
R[NelsonBR@state.gov]; Richard Mannix[richard.mannix@noaa.gov]

Ex. 6 - Personal Privacy

From: Gogal, Danny

Sent: Mon 9/8/2014 8:43:00 PM

Subject: Themes for Sessions at UPR Environmental Issues Civil Society Consultation - October 7 & Due Date for Potential Panelists' Presentations/Comments

Greetings,

Thank you to those who were able to participate in August 27 planning call for the Universal Periodic Review (UPR) Environment Issues Civil Society Consultation, which is scheduled for Tuesday, October 7, 2014, 8:30 AM - 3:00 PM at UC – Berkeley Law School, in Berkeley, CA. We received some good input on the agenda, which resulted in the development of the following tentative themes for the three separate 1 ½ hour sessions planned for the civil society consultation. The consultation will address the UPR recommendations supported in whole or in part by the United States that relate to Issue Group #8 (The Environment), as well as recent developments in the field of human rights and the environment:

1. Climate Change
2. Water Issues
3. Environmental/Public Health and Vulnerable Communities

As discussed, the sessions will include up to four non-governmental panelists, who will each be afforded ten minutes to present their comments on the session theme. After their presentations, the US Government will first seek comments from those who pre-registered to comment, then proceed to seek comments from the public attending the consultation in person, as well as from those on the phone and those who E-mail comments during the sessions. UC – Berkeley will facilitate the sessions.

We appreciate those of you who sent us potential panelists for the proposed panels. However, given the short period of time we have before the consultation, we ask that you reach out to any persons you think would be interested in serving as a panelist for any of the three sessions noted above. All interested panelists are asked to prepare and submit their written comments (to be no longer than ten minutes delivery time, about two pages) by Monday, September 15, to UC – Berkeley at the following E-mail address: uprenviro@law.berkeley.edu.

Panelists may consider addressing the following in their prepared comments:

1. Who is impacted by the concern(s) or issues(s) raised?
2. What recommendations do you have for resolving the concerns or issues, or for addressing the UPR recommendation supported in whole or in part?

3. Which agencies do you think have the authority to address the concerns or issues?

A revised agenda, with the final themes for the sessions, will be sent out electronically to all registered participants prior to the civil society consultation.

Additional information on this UPR Environment Issues Civil Society Consultation can be found at: <http://www.law.berkeley.edu/17648.htm>

Regarding notes from the UPR civil society consultations, the State Department will be developing a summary of all of the UPR civil society meetings held, including the Environment Issues Civil Society Consultation held last year and the one planned for October 7, and will make those publicly available. However, it is not the State Department's practice to make notes from informal planning or administrative calls, like the one we had on August 27, publicly available. The summaries of the formal civil society consultations are being developed at this time and will be posted publicly.

Please let me know if you have any questions or concerns. We look forward to your participation in the October 7 UPR civil society consultation.

Danny

Daniel E. Gogal

Senior Environmental Protection Specialist
Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

Office of Environmental Justice, USEPA
MC (2201-A)
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-2576, (202) 501-0740 - Fax

From: Gogal, Danny
Sent: Wednesday, August 27, 2014 11:24 AM
To: Danny Gogal
Subject: Draft Agenda for UPR Environmental Issues Civil Society Meeting - October 7 - Planning Conference Call - August 27, 1:00 - 2:00 ET

Greetings,

Please find attached the draft agenda for the October 7 UPR Environment Issues Civil Society meeting. We look forward to receiving your input on the agenda during today's scheduled planning call, August 27, 1:00 – 2:00 ET, conference phone number Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Please see the message below for further details.

Thank you,

Danny

Daniel E. Gogal

Senior Environmental Protection Specialist
Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

Office of Environmental Justice, USEPA
MC (2201-A)
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-2576, (202) 501-0740 - Fax

From: Gogal, Danny
Sent: Thursday, August 07, 2014 11:37 AM
To: Danny ogal
Subject: UPR Environmental Issues - Planning Conference Call - August 27, 1:00 - 2:00 ET

Greetings:

The U.S. Environmental Protection Agency invites you to participate on a call with federal agencies to discuss the agenda for the upcoming consultation relating to the U.S. Government's (USG) work on environmental issues as part of its follow up to the 2010 United Nations Universal Periodic Review (UPR). **The call will take place on Wednesday, August 27, 2014, from 1 p.m. to 2:00 p.m. (ET). Please use the following information to access the call: conference phone number**

Ex. 6 - Personal Privacy

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This call is part of a larger effort by the Obama Administration to engage stakeholders after the 2010 review. The UPR is a process through which the human rights record of each United Nations (UN) member is reviewed. As part of the UPR, each UN member is encouraged to engage relevant stakeholders, including non-governmental organizations, to discuss issues related to the review. The USG has held a number of meetings to engage stakeholders about a variety of issues raised during the 2010 review. The USG held a consultation on environmental issues via conference call last year on July 18, 2013.

In preparation for the USG public meeting, scheduled for October 7, at the University of California, School of Law, in Berkeley, California, we are seeking your input for the meeting agenda. The goal of this meeting is to follow up on the recommendations which the USG supported in whole or in part during the 2010 UPR, and to provide the public an additional opportunity to engage federal agencies on these issues.

Please note that individuals who plan to provide comments during the October 7 USG public meeting on UPR environmental issues will be asked to submit their comments in writing by Tuesday, September 9. Commenters will be limited to 2 minutes each in order to provide the opportunity for the maximum number of people to offer comments.

We will provide you with an agenda for the August 27 call prior to the meeting. If you have any questions or comments, you may contact me at (202) 564-2576, or gogal,danny@epa.gov. For more information about the UPR process, please visit <http://www.state.gov/j/drl/upr/index.htm>.

Sincerely,

Danny Gogal, Chair

USG Environment Work Group - UPR

Daniel E. Gogal

Senior Environmental Protection Specialist
Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

Office of Environmental Justice, USEPA
MC (2201-A)
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-2576, (202) 501-0740 - Fax

To: Abby Robinson[arubinson@earthjustice.org]
From: Gogal, Danny
Sent: Thur 8/28/2014 12:21:01 PM
Subject: RE: Draft Agenda for UPR Environmental Issues Civil Society Meeting - October 7 - Planning Conference Call - August 27, 1:00 - 2:00 ET

Great. Thank you Abby.

Danny

Daniel E. Gogal

Senior Environmental Protection Specialist
Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

Office of Environmental Justice, USEPA
MC (2201-A)
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-2576, (202) 501-0740 - Fax

From: Abby Robinson [mailto:arubinson@earthjustice.org]
Sent: Wednesday, August 27, 2014 2:25 PM
To: Gogal, Danny
Subject: RE: Draft Agenda for UPR Environmental Issues Civil Society Meeting - October 7 - Planning Conference Call - August 27, 1:00 - 2:00 ET

Dear Danny:

Thanks very much for hosting this call to solicit input on the agenda for the October 7th consultation. As you requested, I'm emailing you my suggestion regarding the nature of panelists' contributions:

When you invite panelists to participate in the consultation, **I suggest providing them with some idea of what the USG is hoping to gain from their contributions and how it plans to use the information.** The idea is to help keep the comments focused, constructive, and useful.

- For instance, if the USG is looking for specific examples of certain effects of climate change (or water, etc.) on certain human rights somewhere in the US, you could let the panelists know that.

- Perhaps what you're looking for may be specific to a particular panelist. For instance, if the USG seeks to better understand what the duty of international cooperation means for the US in this context, you could invite a panelist knowledgeable about the US's obligations under international law and ask him/her to address that topic.

One suggestion likely applicable to all panelists is to **ask them to consider providing recommendations on measures the USG could take to address the issue(s) they raise** (assuming the USG would take their recommendations into account).

Please let me know if you have any questions or seek any clarification.

Many thanks,

Abby

From: Gogal, Danny [<mailto:Gogal.Danny@epa.gov>]

Sent: Wednesday, August 27, 2014 8:24 AM

To: Gogal, Danny

Subject: Draft Agenda for UPR Environmental Issues Civil Society Meeting - October 7 - Planning Conference Call - August 27, 1:00 - 2:00 ET

Greetings,

Please find attached the draft agenda for the October 7 UPR Environment Issues Civil Society meeting. We look forward to receiving your input on the agenda during today's scheduled planning call, August 27, 1:00 – 2:00 ET, conference phone number Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Please see the message below for further details.

Thank you,

Danny

Daniel E. Gogal

Senior Environmental Protection Specialist
Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

Office of Environmental Justice, USEPA
MC (2201-A)
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-2576, (202) 501-0740 - Fax

From: Gogal, Danny

Sent: Thursday, August 07, 2014 11:37 AM

To: Danny Gogal

Subject: UPR Environmental Issues - Planning Conference Call - August 27, 1:00 - 2:00 ET

Greetings:

The U.S. Environmental Protection Agency invites you to participate on a call with federal agencies to discuss the agenda for the upcoming consultation relating to the U.S. Government's (USG) work on environmental issues as part of its follow up to the 2010 United Nations Universal Periodic Review (UPR). **The call will take place on Wednesday, August 27, 2014, from 1 p.m. to 2:00 p.m. (ET). Please use the following information to access the call: conference phone number**

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

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each United Nations (UN) member is reviewed. As part of the UPR, each UN member is encouraged to engage relevant stakeholders, including non-governmental organizations, to discuss issues related to the review. The USG has held a number of meetings to engage stakeholders about a variety of issues raised during the 2010 review. The USG held a consultation on environmental issues via conference call last year on July 18, 2013.

In preparation for the USG public meeting, scheduled for October 7, at the University of California, School of Law, in Berkeley, California, we are seeking your input for the meeting agenda. The goal of this meeting is to follow up on the recommendations which the USG supported in whole or in part during the 2010 UPR, and to provide the public an additional opportunity to engage federal agencies on these issues.

Please note that individuals who plan to provide comments during the October 7 USG public meeting on UPR environmental issues will be asked to submit their comments in writing by Tuesday, September 9. Commenters will be limited to 2 minutes each in order to provide the opportunity for the maximum number of people to offer comments.

We will provide you with an agenda for the August 27 call prior to the meeting. If you have any questions or comments, you may contact me at (202) 564-2576, or gogal,danny@epa.gov. For more information about the UPR process, please visit <http://www.state.gov/j/drl/upr/index.htm>.

Sincerely,

Danny Gogal, Chair

USG Environment Work Group - UPR

Daniel E. Gogal

Senior Environmental Protection Specialist

Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

Office of Environmental Justice, USEPA
MC (2201-A)
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-2576, (202) 501-0740 - Fax

To: Danny Gogal[Gogal.Danny@epa.gov]
Bcc: andrea@treatycouncil.org[andrea@treatycouncil.org];
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From: Gogal, Danny
Sent: Wed 8/27/2014 3:24:22 PM
Subject: Draft Agenda for UPR Environmental Issues Civil Society Meeting - October 7 - Planning

Conference Call - August 27, 1:00 - 2:00 ET
UPR Environment Issues Consultation Agenda - DRAFT 8-27-14.doc

Greetings,

Please find attached the draft agenda for the October 7 UPR Environment Issues Civil Society meeting. We look forward to receiving your input on the agenda during today's scheduled planning call, August 27, 1:00 – 2:00 ET, conference phone number Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Please see the message below for further details.

Thank you,

Danny

Daniel E. Gogal

Senior Environmental Protection Specialist
Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

Office of Environmental Justice, USEPA
MC (2201-A)
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 564-2576, (202) 501-0740 - Fax

From: Gogal, Danny

Sent: Thursday, August 07, 2014 11:37 AM

To: Danny Gogal

Subject: UPR Environmental Issues - Planning Conference Call - August 27, 1:00 - 2:00 ET

Greetings:

The U.S. Environmental Protection Agency invites you to participate on a call with

federal agencies to discuss the agenda for the upcoming consultation relating to the U.S. Government's (USG) work on environmental issues as part of its follow up to the 2010 United Nations Universal Periodic Review (UPR). **The call will take place on Wednesday, August 27, 2014, from 1 p.m. to 2:00 p.m. (ET). Please use the following information to access the call: conference phone number**

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

This call is part of a larger effort by the Obama Administration to engage stakeholders after the 2010 review. The UPR is a process through which the human rights record of each United Nations (UN) member is reviewed. As part of the UPR, each UN member is encouraged to engage relevant stakeholders, including non-governmental organizations, to discuss issues related to the review. The USG has held a number of meetings to engage stakeholders about a variety of issues raised during the 2010 review. The USG held a consultation on environmental issues via conference call last year on July 18, 2013.

In preparation for the USG public meeting, scheduled for October 7, at the University of California, School of Law, in Berkeley, California, we are seeking your input for the meeting agenda. The goal of this meeting is to follow up on the recommendations which the USG supported in whole or in part during the 2010 UPR, and to provide the public an additional opportunity to engage federal agencies on these issues.

Please note that individuals who plan to provide comments during the October 7 USG public meeting on UPR environmental issues will be asked to submit their comments in writing by Tuesday, September 9. Commenters will be limited to 2 minutes each in order to provide the opportunity for the maximum number of people to offer comments.

We will provide you with an agenda for the August 27 call prior to the meeting. If you have any questions or comments, you may contact me at (202) 564-2576, or gogal,danny@epa.gov. For more information about the UPR process, please visit <http://www.state.gov/j/drl/upr/index.htm>.

Sincerely,

Danny Gogal, Chair

USG Environment Work Group - UPR

Daniel E. Gogal

Senior Environmental Protection Specialist
Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

Office of Environmental Justice, USEPA
MC (2201-A)
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Washington, DC 20460
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United States Government Consultation on Environmental Issues Relating to United Nations Universal Periodic Review

Tuesday, October 7, 2014 8:30 am – 3:00 pm
U.C. Berkeley School of Law

- 8:30-9:00** **Registration and Continental Breakfast**
- 9:00-9:25** **Welcome, Introductions, and Overview of UPR Review and
Consultation Process**
- TBD: Berkeley Law
- TBD: Department of State and/or EPA representative
- 9:15-10:45** **Panel 1 – UPR Recommendations: Environment**
- Moderator: UC - Berkeley
- Panelists:
- # 1 Name, Affiliation, and Topic (TBD)
- # 2 Name, Affiliation, and Topic (TBD)
- # 3 Name, Affiliation, and Topic (TBD)
- # 4 Others?
- Audience and on Phone Questions & Comments
- Government Responses
- 10:45-11:00** **Break**
- 11:00-12:30** **Panel 2 – UPR Issues (Will be informed by the EWG
conference call with civil society on 8/27)**
- Moderator: UC - Berkeley
- Panelists:

- # 1 Name, Affiliation, and Topic (Rural Area Rep)
- # 2 Name, Affiliation, and Topic (Tribal/Indigenous Rep)
- # 3 Name, Affiliation, and Topic (Urban Area Rep?)
- # 4 Other Rep?

Audience and on Phone Questions & Comments

Government Responses

12:30-1:15 LUNCH

1:15-2:45 Panel 3 - UPR Issues (Will be informed by the EWG conference call with civil society on 8/27)

Moderator: UC - Berkeley

Panelists:

- # 1 Name, Affiliation, and Topic (Rural Area Rep)
- #2 Name, Affiliation, and Topic (Tribal/Indigenous Rep)
- # 3 Name, Affiliation, and Topic (Urban Area Rep?)
- # 4 Other Rep?

Audience and on Phone Questions & Comments

Government Responses

2:45-3:00 Closing Remarks and Adjournment

Please note:

Questions for the panelists and government representatives can be submitted via email to upr_info@state.gov or, for those present at the event, by using the blank cards available.

UPR Recommendations: Environment

- **Recommendation 51**—Comply with its international obligations for the effective mitigation of greenhouse gas emissions, because of their impact in climate change.
- **Recommendation 221**—Take positive steps in regard to climate change, by assuming the responsibilities arising from capitalism that have generated major natural disasters particularly in the most impoverished countries.
- **Recommendation 222**—Implement the necessary reforms to reduce their greenhouse gas emissions and cooperate with the international community to mitigate threats against human rights resulting from climate change.

United States Initial Response

- *Report of the United States of America Submitted to the U.N. High Commissioner for Human Rights In Conjunction with the Universal Periodic Review Response to the U.N. Human Rights Council Working Group Report, March 10, 2011*
 - “Some countries added to their recommendations inaccurate assumptions, assertions, or factual predicates, some of which are contrary to the spirit of the UPR. In such cases, we have decided whether we support a recommendation by looking past the rhetoric to the specific action or objective being proposed. When we say we “support in part” such recommendations, we mean that we support the proposed action or objective but reject the often provocative assumption or assertion embedded in the recommendation.”
 - The United States supports Recommendations 51, 221, and 222 in part. The U.S. “disagree[d] with premises embedded in these recommendations, but agree[d] with their essential objectives (reduce greenhouse gas emissions and cooperate internationally).”

To: Tina Hudgins[Ex. 6 - Personal Privacy]
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From: Marvin S. Robinson, II
Sent: Thur 4/14/2016 7:52:48 PM
Subject: Fw: EARTH DAY 2016
[Earth Day 2016.docx](#)

Please consider by helping to re-send

Thanks,

Marvin

Earth Day 2016



Quindaro Ruins/Underground Railroad- Exercise 2016

**Invites and WELCOMES you to TOUR the QUINDARO RUINS/
Underground Railroad for EARTH DAY!!!**

Friday April 22nd & Saturday April 23rd 12:00 PM

N. 27th & Sewell Ave (John Brown Memorial)

Free and open to the public

Comfortable walking shoes required/requested

THANK YOU in advance

To: Lee, Charles[Lee.Charles@epa.gov]
From: Emma Cheuse
Sent: Wed 3/30/2016 1:04:42 PM
Subject: Risk assessment comments
Earthjustice Human Exposure Comments 03-22-16 FILED.pdf
EPA-HQ-ORD-2015-0684-0027 Scientist Comment NRDC.pdf

Dear Charles,

Attached is a courtesy copy of the comments we submitted to EPA last week. We attached the prior comments requesting that EPA follow through on its prior commitment to do so, now as part of Plan EJ2020. Scientists (Tracey Woodruff et al.) also submitted a letter emphasizing the need to address these approaches, submitted by an NRDC health scientist (also attached).

About 23,000 people also submitted comments urging EPA to update its overall approach to address and account for real-world risks communities are facing.

Best regards,

Emma

Emma Cheuse

Staff Attorney

Earthjustice

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ORD Docket
Environmental Protection Agency
Mailcode: 28221T
1200 Pennsylvania Ave., NW
Washington, DC 20460

Submitted online via Regulations.gov
Docket ID: EPA-HQ-ORD-2015-0684

Re: Draft Guidelines for Human Exposure Assessment

March 22, 2016

Improved risk assessment practices at the Environmental Protection Agency (EPA) have the potential to drive policy decisions that would alleviate many of the threats to children's health from environmental exposures. EPA's risk assessment practices, including exposure assessment, need substantial updates to reflect current science and ensure that EPA fully evaluates, and then addresses, the real-world risks to children and communities. It is positive that EPA is updating the Guidelines for Human Exposure Assessment and we urge EPA to complete these important updates this year.

There is increasing evidence that environmental exposures are jeopardizing the health and well-being of children across the country. Preventing these exposures can result in significant decreases in diseases which take an extraordinary toll on our communities:

- Asthma – reducing toxic exposures could alleviate 1 in 3 cases of asthma requiring medical attention¹;
- Childhood Cancers – 10-20% of the 3 most common childhood cancers can be prevented by reducing environmental hazards¹;
- Neurobehavioral Disorders (Autism, ADHD, Intellectual Disability) – an estimated 10% can be prevented by reducing toxic exposures. In California, this was estimated to equal 1800 children each year¹;
- Healthier kids equal significant cost savings
 - California estimate = \$254 million annually and \$10 to \$13 billion over the lifetime of children born within a single year¹
 - US estimate = \$76.6 Billion in 2008².

But from the impacts of pesticides in agricultural communities to air toxics from industrial sources in overburdened communities, EPA's risk assessments have failed to properly address the vulnerability of the developing fetus, infant and child, thus likely contributing to an increasing burden of disease.

With the proposed revisions and updates to EPA's Guidelines for Exposure Assessment, EPA has the opportunity to correct and strengthen outdated and scientifically unsupported practices that lead to

¹ California Environmental Health Tracking Program & Public Health Institute, 2015. Costs of Environmental Health Conditions in California Children. Available at: http://www.phi.org/uploads/files/2015ROI_CEHTP.pdf.

² Trasande, L. & Liu, Y., 2011. Reducing The Staggering Costs Of Environmental Disease In Children, Estimated At \$76.6 Billion In 2008. Health Affairs, 30(5), pp.863–870.

underestimations of risk, ultimately hampering the protection of the developing fetus and children from environmental and consumer product exposures. In order to prevent disease and improve health, it is not enough for EPA to simply finalize these draft guidelines; the guidelines must result in changes to the *actual practices* used at EPA to evaluate health threats from environmental exposures. Bridging the gap between these guidelines and how EPA conducts risk assessments is critical in order to see assessments that more accurately and completely account for real-world health risks, leading to informed risk management and public health protections.

Currently, the draft guidance summarizes important principles that are not routinely incorporated into the assessments conducted by EPA programs. EPA programs need clear directives, methods, and deadlines for incorporating the following principles expressed in the draft guidelines into their risk assessment practice:

- (1) **Accurate assessment of aggregate exposures.** EPA acknowledges the importance of evaluating aggregate exposures of contaminants of concern that may impact an individual, or community, via multiple pathways of exposure but assessments often fail to accurately assess aggregate exposures. If there are insufficient data to quantify aggregate exposures, a default should be used to account for these exposures. The guidelines need to ensure that when exposures can occur via multiple pathways (i.e. inhalation and oral), the combined exposure is included in any risk analysis, from the start. Exposures add up, and different exposures may add up to an unsafe level—that is the fundamental premise behind an aggregate assessment, so each risk from one route individually must be considered together in context with all other exposures, and all types of carcinogenic risks must be, at least, added together. This is important for children in agricultural communities, for example, who may be exposed to pesticides from food, water, and off-target drift from fields. It is also critical for children who breathe air near major air toxics sources like refineries, and also drink the breast milk of their mothers who breathe such air, and play on playgrounds nearby, ingesting soil that is contaminated with persistent bioaccumulative toxicants deposited from those refineries' air emissions.
- (2) **Accounting for cumulative exposures and effects.** EPA acknowledges that there are additional significant health threats for individuals and communities facing: multiple sources of contaminants; multiple contaminants that together pose a larger health threat because they act through a common pathway or impact similar health endpoints; and the combined impact of contaminant exposure with social stressors. EPA should use default factors to account for the known additional risk coming from these types of exposures where they cannot be more explicitly quantified. These health threats often fall disproportionately on disadvantaged communities where there are more sources of chemicals and greater levels of stress. The guidelines need to provide clear methods to factor these health threats into existing risk assessment protocols, starting with an interim measure until EPA completes full new cumulative risk guidelines. Scammell et al. describe how tools including indexes, maps, and combined approaches can provide an important first step towards evaluating background exposures and delineating the cumulative context for an assessment³. EPA should also use available data to quantitatively inform variability and vulnerability factors in risk assessments.

³ Scammell, M.K., Montague, P. & Raffensperger, C., 2014. Tools for Addressing Cumulative Impacts on Human Health and the Environment. *Environmental Justice*, 7(4), pp.102–109.

- (3) **Consideration of vulnerable groups and populations of concern.** EPA acknowledges the need to consider differential exposure profiles based on life-stage and population characteristics, such as ethnicity, dietary preferences, socioeconomic status, or cultural practices. Although updates have been made to the Exposure Factors handbook to provide additional values to account for unique exposures to children and the developing fetus, including placental transfer, breastmilk and object-to-mouth ingestion, considering these routes of exposure has not yet been incorporated into risk assessments performed by many of the EPA programs. Another example of inadequately accounting for exposures to populations of concern is the consideration of dietary intake of bioaccumulative chemicals, which would be much higher for indigenous and some low-income communities that rely on subsistence fishing or traditional foods such as marine mammals.
- (4) **Use of accurate exposure models.** EPA discusses the importance of the rigorous evaluation, and validation, of exposure models and algorithms (including traditional and high-throughput models and algorithms) to ensure that there is sufficient predictive capacity to meet the objectives of the risk assessment. EPA programs must be directed to use the best-available methods and to reject the use of models and algorithms that do not meet the criteria described in the guidance document and are found not to align with observational or experimental data.

The following issues are not adequately addressed in the draft guidelines and revisions should be made to incorporate:

- (5) **The science on early-life vulnerability.** These guidelines must incorporate the science documenting that early-life exposures present greater risks to the developing fetus and child due to increased susceptibility and vulnerability. Age-dependent adjustment factors should be used for all carcinogens, not only those that act by a mutagenic mode of action. Adjustment factors should also be used to account for increased susceptibility to carcinogens due to prenatal exposures, which the draft guidelines currently do not cover. For chronic non-cancer risks, increased susceptibility of children (including prenatally) should be accounted for through use of child-specific reference values or additional uncertainty/ safety factors where reference values are not available. Scientific findings over the last decade clearly indicate that the prenatal period is a particular window of susceptibility to multiple adverse health outcomes in addition to cancer, including neurodevelopmental and respiratory effects^{4, 5}. These need to be accounted for in the guidelines.
- (6) **A systematic literature review as a key first step in planning and scoping.** EPA's exposure assessments should be informed by the body of scientific evidence. It is important that the literature review use elements of a systematic review process in order to transparently conduct a comprehensive literature search, document and evaluate evidence. Systematic review methods for chemical assessments have been developed and implemented through various case studies by the National Toxicology Program (NTP) Office of Health Assessment and Translation

⁴ Grandjean, P.; Landrigan, P. J., Neurobehavioural effects of developmental toxicity. 701 Lancet Neurol. 2014, 13, (3), 330-338.

⁵ Pinkerton, K.E. & Joad, J.P., 2000. The mammalian respiratory system and critical windows of exposure for children's health. Environmental health perspectives, 108 Suppl , pp.457–62.

(OHAT), the EPA Integrated Risk Information System (IRIS) program, the University of California San Francisco, and others.⁶

To protect people from unsafe exposures to toxicants in the environment and consumer products, EPA needs to finalize the draft exposure guidelines in 2016, release and then implement a plan to transform risk assessment practice according to these guidelines. This will be a critical piece of larger risk assessment reforms that are needed to more comprehensively address early life vulnerabilities and move towards the practices recommended in the National Academies Report *Science and Decisions*⁷. Bringing these guidelines up to date with current science is a critical step towards ensuring safer, healthier communities where children can live, learn and play.

Thank you for the opportunity to comment on this guideline document. We look forward to seeing EPA ensure that families are protected from toxic chemical exposures in their homes, workplaces and communities.

Sincerely,



Veena Singla, PhD
Staff Scientist
Natural Resources Defense Council



Miriam Rotkin-Ellman, MPH
Senior Scientist
Natural Resources Defense Council

Pamela Miller
Executive Director
Alaska Community Action on Toxics

Katie Huffling, RN, MS, CNM
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Healthy Babies Bright Futures

Ted Schettler MD, MPH
Science Director
Science and Environmental Health Network

(individual signers on next page)

⁶ Rooney AA, Boyles AL, Wolfe MS, Bucher JR, Thayer KA. Systematic review and evidence integration for literature-based environmental health science assessments. *Environ Health Perspect*. 2014 Jul;122(7):711–8. Thayer KA, Wolfe MS, Rooney AA, Boyles AL, Bucher JR, Birnbaum LS. Intersection of systematic review methodology with the NIH reproducibility initiative. *Environ Health Perspect*. 2014 Jul;122(7):A176–7. Birnbaum LS, Thayer KA, Bucher JR, Wolfe MS. Implementing systematic review at the National Toxicology Program: status and next steps. *Environ Health Perspect*. 2013 Apr;121(4):A108–9. Woodruff TJ, Sutton P. The Navigation Guide systematic review methodology: a rigorous and transparent method for translating environmental health science into better health outcomes. *Environ Health Perspect*. 2014 Oct;122(10):1007–14.

⁷ National Research Council, 2009. *Science and Decisions: Advancing Risk Assessment*, Washington, D.C.: National Academies Press.

The views expressed in this editorial are the opinion of the individuals who are listed below and DO NOT imply an endorsement or support for these opinions by any organizations to which they are affiliated.

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School of Nursing & Health Studies
Georgetown University

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North Valley, Kaiser Permanente

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To: Stephanie Maddin[smaddin@earthjustice.org]; 'Sara Chieffo'[Sara_Chieffo@lcv.org]; Ernesto Vargas (Ernesto_Vargas@lcv.org)[Ernesto_Vargas@lcv.org]
Cc: Tejada, Matthew[Tejada.Matthew@epa.gov]
Sent: Wed 6/24/2015 11:02:36 PM
Subject: RE: Introductions

Sara and Ernesto

Thank you very much for taking the time to visit with us today. It is very inspiring to see all the great work taking place in the Latino community. As I indicated, it would be a if

From: Stephanie Maddin [mailto:smaddin@earthjustice.org]
Sent: Monday, June 15, 2015 3:51 PM
To: 'Sara Chieffo'; Ernesto Vargas (Ernesto_Vargas@lcv.org)
Cc: Lee, Charles; Tejada, Matthew
Subject: Introductions

Charles and Matt,

I'd like to introduce you to Sara Chieffo and Ernesto Vargas. Sara is the Legislative Director in the DC office of the League of Conservation Voters and Ernesto is the Deputy Director of Latino Outreach. They have some exciting outreach work in the cue and I thought you both would be a great resource!

Very best,

Stephanie Maddin

Legislative Counsel

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Because the earth needs a good lawyer

To: Lee, Charles[Lee.Charles@epa.gov]
From: Emma Cheuse
Sent: Tue 7/26/2016 5:17:20 PM
Subject: Next week

Dear Charles,

Apologies that I haven't been able to confer due to people's travel schedules and pending deadlines. I will hopefully follow up with you next week for scheduling the conversation we discussed.

We greatly appreciate your reaching out on this.

Very best regards,

Emma

Emma Cheuse

Staff Attorney

Earthjustice

1625 Massachusetts Avenue, N.W., Suite 702

Washington, DC 20036-2243

T: 202.745.5220 or 202.667.4500 Ext. 5220

F: 202.667.2356

earthjustice.org



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To: Lee, Charles[Lee.Charles@epa.gov]; Ali, Mustafa[Ali.Mustafa@epa.gov]
From: Marianne Engelman Lado
Sent: Tue 7/26/2016 5:08:00 PM
Subject: FW: Comments on EJ 2020 Action Agenda, Environmental Justice Strategic Plan 2016-2020
EJ 2020 Action Agenda Title VI Comments FINAL.pdf

I thought you might be interested in comments we just submitted to EPA emphasizing the need for greater coordination between EPA's Office of Civil Rights and the Office of Environmental Justice. Earthjustice will also be submitting more comprehensive comments by the deadline tomorrow.

Best,

Marianne

Marianne Engelman Lado

Senior Staff Attorney

Earthjustice

48 Wall Street, 19th Floor

New York, NY 10005

T: 212.845.7393

F: 212.918.1556

earthjustice.org



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To: Lee, Charles[Lee.Charles@epa.gov]; Tejada, Matthew[Tejada.Matthew@epa.gov]
From: Emma Cheuse
Sent: Mon 5/23/2016 7:41:28 PM
Subject: FW: [News] EPA Commits to Strengthen Enforcement for Communities Hit Hardest by Environmental Injustice

Good afternoon, we wanted you to have the statement we sent out today on EPA's announcement of Plan EJ 2020. Best regards, Emma

For Immediate Release
Monday May 23, 2016

Contacts:

Lisa Garcia | Earthjustice, (202) 797-5244 | lgarcia@Earthjustice.org; Daveon Coleman | Earthjustice | (202) 745-5222 | dcoleman@earthjustice.org | Vernice Miller-Travis (Maryland) | (301) 537-2115 / Hilton Kelley, Community In-Power And Development Association (Port Arthur, TX) | (409) 498-1088 [Ex. 6 - Personal Privacy] Jesse Marquez | Coalition For A Safe Environment (Wilmington, CA) [Ex. 6 - Personal Privacy] (310) 590-0177

EPA Commits to Strengthen Enforcement for Communities Hit Hardest by Environmental Injustice

2020 Action Plan highlights how pollution hazards go hand in hand with racial and economic inequality.

WASHINGTON, D.C. — Earthjustice commends the U.S. Environmental Protection Agency for recognizing the need for a renewed commitment to end environmental injustice, and for committing to target enforcement efforts to reduce environmental hazards in at least 100 communities that face the highest burdens from pollution in the United States.

Today, the EPA announced this effort with the release of its Environmental Justice 2020 Action Agenda. The agency will receive public comments about this plan during a 45-day comment period that will end July 7, 2016.

Statement by Lisa Garcia, Earthjustice's Vice President of Litigation for Healthy Communities:

"Today Administrator McCarthy and the many EPA staff who assisted with this plan should be commended for continuing to make environmental justice a priority. We also must recognize all of the environmental justice and civil rights leaders for their dedication in pushing the EPA to issue today's call to action to reduce environmental and health disparities. Communities of color, low-income, and indigenous communities have the same right to clean air, clean water and a healthy environment but have been too often ignored by federal policies and decision-making. This Plan reflects an important recognition that federal actions have sometimes failed to protect the communities hit hardest by pollution, and that EPA must start attacking entrenched environmental injustice by upping its game, especially when it comes to enforcement actions.

Whether EPA strengthens important policy commitments and actually delivers meaningful health protection for the most overburdened, and long-ignored communities will be the real test of today's announcement. Earthjustice will continue working with community partners to insist that

EPA follow the law, fulfill its commitments under this plan, and achieve stronger health protection for communities from lead, freight and port pollution, particulate matter, and other toxic air, water, and waste exposure. EPA's plan is a step in the right direction to start making up for that injustice, and to achieve its commendable goals, EPA must fully include community leaders and voices in following up on its plan to hold agency officials accountable and strengthen their actions, every step of the way," said **Lisa Garcia, Earthjustice Vice President of Litigation for Healthy Communities.**

Statement from Vernice Miller-Travis, Vice-Chair, Maryland Commission on Environmental Justice and Sustainable Communities:

"Today's Plan is a quantum leap forward for EPA to prioritize the needs of environmental justice communities around the country, and this document goes a long way toward addressing those needs," said **Vernice Miller-Travis, Vice-Chair, Maryland Commission on Environmental Justice and Sustainable Communities.** "However, we know this will only happen if there is complete commitment from the White House and EPA, going forward, to fully implement and strengthen this plan, and make it real in the lives of everyday people across the country who are facing unjust and undue burdens from environmental threats to their health and well-being."

Statement from Hilton Kelley, Executive Director, Community In-Power & Development Association, Inc.:

"EPA is taking a step in the right direction when it comes to enforcing compliance and incorporating environmental justice into all of their actions, as well as exploring new ways they should collaborate with states, tribal, and local governments because these regulators need a lot more direction. We know more can and should be done, especially on monitoring and compliance to protect community health and the environment, in communities like Port Arthur and Houston, TX, Mossville, LA, and other Gulf communities," said **Hilton Kelley, Executive Director, Community In-Power & Development Association.**

Statement from Jesse Marquez, Executive Director, Coalition For A Safe Environment:

"We applaud the new visions of the EJ 2020 EPA Action Agenda to focus on other agencies like the US Army Corps of Engineers, which does not have an Environmental Justice Division or Executive Officer, to address the significant negative impacts and environmental law violations of air pollution, noise, traffic congestion, public safety and public health impacts of ports and freight transportation corridors which they have neglected in the past. Recent Port of Los Angeles matters we have worked on are examples of what is wrong with the current environmental and community impact review, assessment and compliance process," said **Jesse Marquez, Executive Director, Coalition For A Safe Environment.**

History behind Plan EJ 2020

Former EPA Administrator Lisa Jackson initiated the first effort through Plan EJ2014 to integrate environmental justice analysis into all EPA programs as a way of implementing President Clinton's 1994 Environmental Justice Executive Order, through guidance on rulewriting, permitting, and enforcement, science, law and mapping tools.

That effort was followed by Administrator McCarthy's EJ 2020 Action Agenda, the EPA's Environmental Justice Strategic Plan for 2016-2020, which for the first time, makes substantive

commitments to reduce or reverse environmental harm that falls hardest on communities of color, low-income, and indigenous communities.

Before coming to Earthjustice, Lisa Garcia worked previously as an environmental justice advisor to EPA Administrator Gina McCarthy and former Administrator Lisa Jackson.

More details on Plan EJ 2020

Available at:

<https://www.epa.gov/environmentaljustice/ej-2020-action-agenda>

<https://www.epa.gov/environmentaljustice/draft-environmental-justice-2020-action-agenda-framework>

In addition to recognizing the need for fair and just environmental enforcement, ensuring resources are fully applied to fulfill legal protection for at least 100 overburdened communities, the EPA has committed through EJ 2020 to a deeper focus of action on what the agency calls four “significant national environmental justice challenges,” which include:

- ☐ reducing children’s blood-lead levels and national action to reduce lead in drinking water;
- ☐ ensuring community drinking water systems meet federal health standards;
- ☐ reducing fine particle pollution to meet national air quality standards for low-income communities; and
- ☐ reducing exposure to contamination at hazardous waste sites.

The specific commitments in these areas should be much stronger, but it is symbolically important that for the first time EPA recognizes it has not done enough in these areas, and that the agency must do more to protect people disproportionately exposed to these hazards.

EPA’s plan is an important recognition by the nation’s environmental experts that injustice exists due to the fact that low-income communities, communities of color, and indigenous communities are subjected to higher levels of pollution, in part because of where polluting sources, like power plants, refineries, landfills and waste treatment facilities are placed, and because EPA has often failed to protect these communities. Communities of color and low-income communities face disproportionate health threats from preventable diseases like asthma and cancer both because of the heavier health burden caused by pollution and toxic exposure, and because EPA has not set or enforced strong enough standards to protect them.

Earthjustice’s work on environmental justice strategy

In 2015, Earthjustice filed comments on EPA’s draft EJ2020 framework on behalf of 51 environmental, community, farmworker, and environmental justice groups and will continue

working to strengthen health protection on environmental hazards included and not included in EPA's strategic plan.

As EPA moves forward, Earthjustice will continue calling on EPA to further strengthen its commitments on the issues it highlights like lead and air quality, and additional important issues like protecting farmworkers and their communities from pesticide exposures, where much more progress is needed to protect communities' health. In the realm of enforcement, in addition to committing more resources as the plan does, EPA also must remove all unlawful regulatory exemptions and loopholes that undermine pollution standards, stop high-priority violators who frequently expose communities to dangerous pollution including from short-term violations that have a significant impact on public health, reform its Title VI external compliance program, and strengthen monitoring and public transparency in addressing the cumulative toxins and environmental hazards harming communities' health.

Read the full release online:

<http://earthjustice.org/news/press/2016/epa-commits-to-strengthen-enforcement-for-communities-hit-hardest-by-environmental-injustice>

Earthjustice, the nation's premier nonprofit environmental law organization, wields the power of law and the strength of partnership to protect people's health, to preserve magnificent places and wildlife, to advance clean energy, and to combat climate change. Because the earth needs a good lawyer.

This email was sent to dcoleman@earthjustice.org
Earthjustice, 1625 Mass. Ave., NW, Ste. 702, Washington, District of Columbia 20036, United States
[Unsubscribe](#)

To: Lee, Charles[Lee.Charles@epa.gov]
From: Emma Cheuse
Sent: Wed 5/4/2016 7:03:56 PM
Subject: RE: Meeting Tomorrow

Charles, thanks for your note, no problem. I will look forward to hearing from you. Best, Emma

Emma Cheuse

Staff Attorney

Earthjustice

1625 Massachusetts Avenue, N.W., Suite 702

Washington, DC 20036-2243

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F: 202.667.2356

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From: Lee, Charles [mailto:Lee.Charles@epa.gov]
Sent: Wednesday, May 04, 2016 3:03 PM
To: Emma Cheuse
Subject: Meeting Tomorrow

Emma

I think it is the best use of your time if we reschedule our meeting tomorrow on EJ 2020. I am still working through some issues here and will not have a document to share yet. I will call to about rescheduling first thing in the morning.

Thanks

Charles

Charles Lee
Deputy Associate Assistant Administrator for Environmental Justice
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (MC 2201A)
William Jefferson Clinton Building South, Room 2226B
Tel: 202-564-2597
Fax: 202-564-1624

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To: ejstrategy[ejstrategy@epa.gov]; Lee, Charles[Lee.Charles@epa.gov]
Cc: Emma Cheuse[echeuse@earthjustice.org]
From: Albert Lin
Sent: Thur 8/4/2016 5:31:27 PM
Subject: EJ 2020 Action Agenda, Environmental Justice Strategic Plan 2016-2020 Comments submitted by Earthjustice
[EJ2020 Comments-Signatory Added.pdf](#)

August 4, 2016

Please accept the attached Comments via e-mail on:

EJ 2020 Action Agenda, Environmental Justice Strategic Plan 2016-2020.

These comments were previously submitted on July 28, 2016. This version adds one organization who has since joined these comments: Center for Health, Environment and Justice. This version also correctly identifies two organizations: Poverty & Race Research Action Council and Society for Positive Action. No other changes other than minor formatting edits have been made.

/s/ Albert Lin (for Emma C. Cheuse)

Albert Lin

Litigation Assistant

Earthjustice Washington, D.C. Office

1625 Massachusetts Avenue, N.W., Suite 702

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To: Lee, Charles[Lee.Charles@epa.gov]
From: Emma Cheuse
Sent: Wed 5/18/2016 4:53:57 PM
Subject: More contacts

Charles - here are some people you may want to contact just in case they're not already on your list. Best, Emma (202) 745-5220

Angelo Logan

Moving Forward Network

alogan@oxy.edu

(323) 259-2759

Dr. Adrienne L. Hollis, Esq.

Director of Federal Policy

WE ACT for Environmental Justice

50 F Street, NW, Seventh Floor

Washington, DC 20001

office: [202-495-3036](tel:202-495-3036)

Email: Adrienne@weact.org

Website: www.weact.org

Jacqui Patterson, NAACP

jpatterson@naacpnet.org

Jesse Marquez

Coalition For A Safe Environment

Wilmington, CA

Ex. 6 - Personal Privacy

Luis Torres, latorres@lulac.org

Mark Magaña, MarkMagana@GreenLatinos.org

Ex. 6 - Personal Privacy

Robert Garcia, rgarcia@cityprojectca.org

Irma Muñoz, irma.munoz@mujeresdelatierra.org

Jose Bravo, jose@just-transition.org

Juan Parras, Texas Environmental Justice Advocacy Services, Ex. 6 - Personal Privacy

Suguet Lopez, suguet@liderescampesinas.org

Virginia Ruiz, vrui@farmworkerjustice.org

Eric Schaeffer,

Environmental Integrity Project, Ex. 6 - Personal Privacy

eschaeffer@environmentalintegrity.org

Sacoby Wilson,

Ex. 6 - Personal Privacy Email: swilson2@umd.edu

Monique Harden

Advocates for Environmental Human Rights

mharden@ehumanrights.org

Ex. 6 - Personal Privacy

Bob Bullard

Bill Gallegos

Richard Moore, Coming Clean Environmental Justice & Health Alliance of Coming Clean;
Director of Los Jardines Institute

Ex. 6 - Personal Privacy

Michele Roberts, National Co-Coordinator of the Environmental Justice and Health Alliance,
Washington, DC, **Ex. 6 - Personal Privacy**

Dorothy Felix

Mossville Environmental Action Now

Ex. 6 - Personal Privacy

Beverly Wright

Deep South Center for Environmental Justice

Ex. 6 - Personal Privacy

Vincent Martin and Theresa Landrum

Original United Citizens of Southwest Detroit

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

To: Alexander Rony[alexander.rony@sierraclub.org]
Cc: Lee, Charles[Lee.Charles@epa.gov]; Lung, Tai[Lung.Tai@epa.gov]; Militscher, Chris[Militscher.Chris@epa.gov]; Peurifoy, Cynthia[Peurifoy.Cynthia@epa.gov]
From: Tejada, Matthew
Sent: Thur 6/2/2016 5:21:39 PM
Subject: Re: Environmental Justice for Prisoners

Great. Thanks.

Matthew Tejada
Director - Office of Environmental Justice
US Environmental Protection Agency

On Thu, Jun 2, 2016 at 10:11 AM -0700, "Alexander Rony" <alexander.rony@sierraclub.org> wrote:

Yes, that is the time we have. Our side has been coordinating with Panagioti, who has been working with your agency on details. Thanks.

On Thu, May 26, 2016 at 8:21 AM, Tejada, Matthew <Tejada.Matthew@epa.gov> wrote:

Thank you Alex. We look forward to the conversation on the afternoon of Friday, June 10 from 3-3:45. Please confirm that this is the correct time and that everyone from your side has the necessary details.

Best,

Matthew

Matthew Tejada

Director - Office of Environmental Justice

Environmental Protection Agency

202-564-8047

From: Alexander Rony [mailto:alexander.rony@sierraclub.org]
Sent: Thursday, May 26, 2016 12:29 AM
To: Tejada, Matthew <Tejada.Matthew@epa.gov>

Cc: Lee, Charles <Lee.Charles@epa.gov>; Militscher, Chris <Militscher.Chris@epa.gov>; Lung, Tai <Lung.Tai@epa.gov>; Peurifoy, Cynthia <Peurifoy.Cynthia@epa.gov>; ejstrategy <ejstrategy@epa.gov>
Subject: Environmental Justice for Prisoners

Dear Mr. Tejada,

Attached is a petition from 12,681 individuals who would like to see a more proactive approach to protecting prisoners from toxic environments. We appreciate that you accepted our coalition's request to meet next month, and we are looking forward to discussing these issues in greater detail.

Best regards,

Alexander Rony

--

Alexander Rony

Sr. Digital Innovation Campaigner

Sierra Club

(415) 977-5739

--

Alexander Rony
Sr. Digital Innovation Campaigner
Sierra Club
(415) 977-5739

To: Tejada, Matthew[Tejada.Matthew@epa.gov]
Cc: Lee, Charles[Lee.Charles@epa.gov]; Militscher, Chris[Militscher.Chris@epa.gov]; Lung, Tai[Lung.Tai@epa.gov]; Peurifoy, Cynthia[Peurifoy.Cynthia@epa.gov]
From: Alexander Rony
Sent: Thur 6/2/2016 5:11:40 PM
Subject: Re: Environmental Justice for Prisoners

Yes, that is the time we have. Our side has been coordinating with Panagioti, who has been working with your agency on details. Thanks.

On Thu, May 26, 2016 at 8:21 AM, Tejada, Matthew <Tejada.Matthew@epa.gov> wrote:

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Best,

Matthew

Matthew Tejada

Director - Office of Environmental Justice

Environmental Protection Agency

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Cc: Lee, Charles <Lee.Charles@epa.gov>; Militscher, Chris <Militscher.Chris@epa.gov>; Lung, Tai <Lung.Tai@epa.gov>; Peurifoy, Cynthia <Peurifoy.Cynthia@epa.gov>; ejstrategy <ejstrategy@epa.gov>
Subject: Environmental Justice for Prisoners

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Best regards,

Alexander Rony

--

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Sierra Club

(415) 977-5739

--

Alexander Rony

Sr. Digital Innovation Campaigner

Sierra Club

(415) 977-5739

To: Lee, Charles[Lee.Charles@epa.gov]
Cc: Tejada, Matthew[Tejada.Matthew@epa.gov]
From: Emma Cheuse
Sent: Mon 5/16/2016 5:57:01 PM
Subject: RE: Meeting on Monday

Charles - looking forward to talking with you soon. Just a note that, per our phone conversation previously on this, I am bringing one colleague -- Khushi Desai -- also in our Healthy Communities program.

Many thanks,

Emma

Emma Cheuse

Staff Attorney

Earthjustice

1625 Massachusetts Avenue, N.W., Suite 702

Washington, DC 20036-2243

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F: 202.667.2356

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From: Emma Cheuse
Sent: Friday, May 13, 2016 4:13 PM
To: 'Lee, Charles'
Cc: Tejada, Matthew
Subject: RE: Meeting on Monday

Thank you - yes. 3:00pm Monday works for me. I will come to your office then, unless you let me know a different meeting spot. Best, Emma

Ex. 6 - Personal Privacy

Emma Cheuse

Staff Attorney

Earthjustice

1625 Massachusetts Avenue, N.W., Suite 702

Washington, DC 20036-2243

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delete the message and any attachments.

From: Lee, Charles [<mailto:Lee.Charles@epa.gov>]
Sent: Friday, May 13, 2016 3:49 PM
To: Emma Cheuse
Cc: Tejada, Matthew
Subject: RE: Meeting on Friday

Hi Emma

Would getting together at any time at 3 pm be good for you. Please find a copy of the draft executive summary for EJ 2020. It is still a draft, so it is for your eyes only. Please do not share it with anyone. If 3 pm does not work, let me know. I can be flexible.

Thanks and have a good weekend.

Charles

From: Emma Cheuse [<mailto:echeuse@earthjustice.org>]
Sent: Thursday, May 12, 2016 11:30 AM
To: Lee, Charles <Lee.Charles@epa.gov>
Cc: Tejada, Matthew <Tejada.Matthew@epa.gov>
Subject: RE: Meeting on Friday

Thanks, Charles. Monday sounds good - please send along the time when possible. I'm hoping to bring one of my colleagues with me to our meeting. Very best regards, Emma

Emma Cheuse

Staff Attorney

Earthjustice

1625 Massachusetts Avenue, N.W., Suite 702

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From: Lee, Charles [<mailto:Lee.Charles@epa.gov>]

Sent: Wednesday, May 11, 2016 11:09 AM

To: Emma Cheuse

Cc: Tejada, Matthew

Subject: RE: Meeting on Friday

Emma

Thanks very much. I think Monday would be better. I will get back with you with some good times.

Also, can you tell Lisa Garcia to call us. Matt and I have been trying to reach her.

Thanks

Charles

From: Emma Cheuse [<mailto:echeuse@earthjustice.org>]

Sent: Wednesday, May 11, 2016 10:50 AM

To: Lee, Charles <Lee.Charles@epa.gov>

Subject: RE: Meeting on Friday

No problem. Unfortunately, I'm booked Friday afternoon with meetings I can't change. Would 8 or 9am tomorrow work? Or, 8 or 9am Monday? (Monday, any time before 4 ET also works for me -- I'd want to quickly check the time you'd propose with Khushi with the hope that she can also join then).

Best, Emma

Emma Cheuse

Staff Attorney

Earthjustice

1625 Massachusetts Avenue, N.W., Suite 702

Washington, DC 20036-2243

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From: Lee, Charles [<mailto:Lee.Charles@epa.gov>]

Sent: Wednesday, May 11, 2016 10:42 AM

To: Emma Cheuse

Subject: Meeting on Friday

Emma

Can we move our meeting on EJ 2020 scheduled for 9 am on Friday, May 13 to 2 pm or later. They scheduled an important meeting for that time.

Thanks

Charles

Charles Lee
Deputy Associate Assistant Administrator for Environmental Justice
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (MC 2201A)
William Jefferson Clinton Building South, Room 2226B
Tel: 202-564-2597
Fax: 202-564-1624

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To: Lee, Charles[Lee.Charles@epa.gov]
From: Marianne Engelman Lado
Sent: Wed 10/7/2015 11:31:58 AM
Subject: Out of Office: WERA Board Chair & Co-Founder > Ex. 6 - Personal Privacy

I will be out of the office and checking emails only intermittently until October 9th. I look forward to receiving your message and getting back to you when I return.

In an emergency, you might be able to reach me on my cell Ex. 6 - Personal Privacy although cell service may be sketchy at times.

Best,

Marianne

To: Lee, Charles[Lee.Charles@epa.gov]
Cc: Tejada, Matthew[Tejada.Matthew@epa.gov]
From: Emma Cheuse
Sent: Fri 5/13/2016 8:13:09 PM
Subject: RE: Meeting on Monday

Thank you - yes. 3:00pm Monday works for me. I will come to your office then, unless you let me know a different meeting spot. Best, Emma (c: Ex. 6 - Personal Privacy)

Emma Cheuse

Staff Attorney

Earthjustice

1625 Massachusetts Avenue, N.W., Suite 702

Washington, DC 20036-2243

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From: Lee, Charles [mailto:Lee.Charles@epa.gov]
Sent: Friday, May 13, 2016 3:49 PM

To: Emma Cheuse
Cc: Tejada, Matthew
Subject: RE: Meeting on Friday

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Thanks and have a good weekend.

Charles

From: Emma Cheuse [<mailto:echeuse@earthjustice.org>]
Sent: Thursday, May 12, 2016 11:30 AM
To: Lee, Charles <Lee.Charles@epa.gov>
Cc: Tejada, Matthew <Tejada.Matthew@epa.gov>
Subject: RE: Meeting on Friday

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Charles

From: Emma Cheuse [<mailto:echeuse@earthjustice.org>]
Sent: Wednesday, May 11, 2016 10:50 AM
To: Lee, Charles <Lee.Charles@epa.gov>
Subject: RE: Meeting on Friday

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Thanks

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Charles Lee
Deputy Associate Assistant Administrator for Environmental Justice
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (MC 2201A)
William Jefferson Clinton Building South, Room 2226B
Tel: 202-564-2597
Fax: 202-564-1624

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To: Lee, Charles[Lee.Charles@epa.gov]
Cc: Tejada, Matthew[Tejada.Matthew@epa.gov]
From: Emma Cheuse
Sent: Thur 5/12/2016 3:29:36 PM
Subject: RE: Meeting on Friday

Thanks, Charles. Monday sounds good - please send along the time when possible. I'm hoping to bring one of my colleagues with me to our meeting. Very best regards, Emma

Emma Cheuse

Staff Attorney

Earthjustice

1625 Massachusetts Avenue, N.W., Suite 702

Washington, DC 20036-2243

T: 202.745.5220 or 202.667.4500 Ext. 5220

F: 202.667.2356

earthjustice.org



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delete the message and any attachments.

From: Lee, Charles [mailto:Lee.Charles@epa.gov]
Sent: Wednesday, May 11, 2016 11:09 AM

To: Emma Cheuse
Cc: Tejada, Matthew
Subject: RE: Meeting on Friday

Emma

Thanks very much. I think Monday would be better. I will get back with you with some good times.

Also, can you tell Lisa Garcia to call us. Matt and I have been trying to reach her.

Thanks

Charles

From: Emma Cheuse [<mailto:echeuse@earthjustice.org>]
Sent: Wednesday, May 11, 2016 10:50 AM
To: Lee, Charles <Lee.Charles@epa.gov>
Subject: RE: Meeting on Friday

No problem. Unfortunately, I'm booked Friday afternoon with meetings I can't change. Would 8 or 9am tomorrow work? Or, 8 or 9am Monday? (Monday, any time before 4 ET also works for me -- I'd want to quickly check the time you'd propose with Khushi with the hope that she can also join then).

Best, Emma

Emma Cheuse

Staff Attorney

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delete the message and any attachments.

From: Lee, Charles [<mailto:Lee.Charles@epa.gov>]

Sent: Wednesday, May 11, 2016 10:42 AM

To: Emma Cheuse

Subject: Meeting on Friday

Emma

Can we move our meeting on EJ 2020 scheduled for 9 am on Friday, May 13 to 2 pm or later.
They scheduled an important meeting for that time.

Thanks

Charles

Charles Lee
Deputy Associate Assistant Administrator for Environmental Justice
Office of Enforcement and Compliance Assurance
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To: Emma Cheuse[echeuse@earthjustice.org]
From: Lee, Charles
Sent: Fri 7/15/2016 7:45:03 PM
Subject: EJ 2020 Enforcement Discussion

Hi Emma

I left you a voice mail on this. Call me when you get a chance. I want to talk with you about pulling together the discussion on EJ 2020 enforcement issues.

Best
Charles

Sent from my iPhone

To: ejstrategy[ejstrategy@epa.gov]; Lee, Charles[Lee.Charles@epa.gov]
Cc: Emma Cheuse[echeuse@earthjustice.org]; Khushi Desai[kdesai@earthjustice.org]; Eve C. Gartner[egartner@earthjustice.org]; Marianne Engelman Lado[mengelmanlado@earthjustice.org]
From: Albert Lin
Sent: Thur 7/28/2016 8:37:35 PM
Subject: EJ 2020 Action Agenda, Environmental Justice Strategic Plan 2016-2020 Comments submitted by Earthjustice
[EJ2020 Comments.pdf](#)
[Appendix Directory.pdf](#)
[01 Cumulative Risk Assessment Comments.pdf](#)
[02 Draft EJ 2020 Framework Comments.pdf](#)
[03 Risk Management Programs Comments.pdf](#)
[04 Earthjustice Human Exposure Assessment Comments.pdf](#)
[05 NRDC Human Exposure Assessment Comments.pdf](#)
[06 Lawyers Committee - Env'tl Injustice in the U.S..pdf](#)
[07 Letter from NEJAC to EPA.pdf](#)
[08 Right-to-Know Network.TRI Search Results-Lead.pdf](#)

July 28, 2016

Please accept the attached Comments and appendix documents submitted via e-mail on:

EJ 2020 Action Agenda, Environmental Justice Strategic Plan 2016-2020.

These comments are submitted by Earthjustice on behalf of Environmental and Community Groups Air Alliance Houston, Alaska Community Action on Toxics, Alternatives for Community and Environment, American Veterans (AmVETS), Apostolic Faith Center, Benicians for a Safe and Healthy Community, Beyond Toxics, California Communities Against Toxics, California Kids IAQ, California Rural Legal Assistance Foundation, California Safe Schools, Center for Biological Diversity, Citizens Against Ruining the Environment, Clean Air Council, Clean and Healthy New York, Coalition For A Safe Environment, Comite Civico del Valle, Comite Pro Uno, Community Dreams, Community In-Power & Development Association, Del Amo Action Committee, East Yard Communities for Environmental Justice, Ecology Center, EMERGE, Farmworker Association of Florida, Farmworker Justice, Gasp, Good Neighbor Steering Committee (Benicia), GreenLatinos, Greenpeace, Health Care Without Harm, Human Rights Defense Center, Louisiana Environmental Action Network, NAACP San Pedro-Wilmington Branch #1069, New Mexico Environmental Law Center, PenderWatch & Conservancy, Pesticide Action Network North America, Policy & Race Research Action Council, Sierra Club, Society for Positive Change, Texas Campaign for the Environment & TCE Fund, Texas Environmental Justice Advocacy Services (T.E.J.A.S.), The City Project, Utah Physicians for a Healthy Environment, WE ACT for Environmental Justice, Wilmington Improvement Network, Women's Voices for the Earth, and Earthjustice.

/s/ Albert Lin (for Emma C. Cheuse)

Albert Lin

Litigation Assistant

Earthjustice Washington, D.C. Office

1625 Massachusetts Avenue, N.W., Suite 702

Washington, DC 20036-2243

T: 202.745.5219

F: 202.667.2356

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To: Lee, Charles[Lee.Charles@epa.gov]
Cc: Nkrumah Frazier [Ex. 6 - Personal Privacy]
From: Sandra Jordan
Sent: Tue 3/15/2016 4:02:53 PM
Subject: Re: Your Phone Call [Ex. 6 - Personal Privacy]

Charles, I spoke to my colleague here who will be at the conference starting tomorrow. We are hoping that you might have some time Thursday am or perhaps at noon on Thursday. I will drive down Thursday morning, meet with you and return thereafter. [Ex. 6 - Personal Privacy] but have not reviewed the conference's schedule to see what might work. I do very much want to talk with you and meet, if possible, Ms. Fields, DC's Sierra.

Please let me know. Is there a cell number where I can reach you today or tomorrow?

Sandra Jordan
[Ex. 6 - Personal Privacy] (cell/text)

cc: Nkrumah Frazier, MS Exe. Committee, Sierra Club

From: "Lee, Charles" <Lee.Charles@epa.gov>
To: "sandrapjordan" [Ex. 6 - Personal Privacy]
Sent: Monday, March 14, 2016 3:30 PM
Subject: Your Phone Call [Ex. 6 - Personal Privacy]

Sandra

Got your voice mail. It is great to hear from you. [Ex. 6 - Personal Privacy] I will be glad to talk with you, either at the NEJAC (if you are able to attend) or by phone at some other time. My schedule is really crazy right now, so send me some good times to call or give me a call if you don't hear from me soon.

Regards,
Charles

Charles Lee
Deputy Associate Assistant Administrator for Environmental Justice
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
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To: Lee, Charles[Lee.Charles@epa.gov]
From: Emma Cheuse
Sent: Wed 5/11/2016 2:49:41 PM
Subject: RE: Meeting on Friday

No problem. Unfortunately, I'm booked Friday afternoon with meetings I can't change. Would 8 or 9am tomorrow work? Or, 8 or 9am Monday? (Monday, any time before 4 ET also works for me -- I'd want to quickly check the time you'd propose with Khushi with the hope that she can also join then).

Best, Emma

Emma Cheuse

Staff Attorney

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Sent: Wednesday, May 11, 2016 10:42 AM
To: Emma Cheuse
Subject: Meeting on Friday

Emma

Can we move our meeting on EJ 2020 scheduled for 9 am on Friday, May 13 to 2 pm or later.
They scheduled an important meeting for that time.

Thanks

Charles

Charles Lee
Deputy Associate Assistant Administrator for Environmental Justice
Office of Enforcement and Compliance Assurance
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To: Ali, Mustafa[Ali.Mustafa@epa.gov]; Allie Sheffield[Ex. 6 - Personal Privacy]
Cc: ejstrategy[ejstrategy@epa.gov]; Ayo Wilson[Ex. 6 - Personal Privacy]Patricia White[Ex. 6 - Personal Privacy] North Carolina Environmental Justice Network[Ex. 6 - Personal Privacy] Marilyn Marsh-Robinson[Ex. 6 - Personal Privacy] Sacoby Wilson[swilson2@umd.edu]; vbitting@sercap.org[vbitting@sercap.org]; kedesch.altidor@hhs.gov[kedesch.altidor@hhs.gov]; Don Cavellini[Ex. 6 - Personal Privacy]Epps-Price, Lena[Epps-Price.Lena@epa.gov]; danirose@live.unc.edu[danirose@live.unc.edu]; mercedes.hernandez-pelletier@dhhs.nc.gov[mercedes.hernandez-pelletier@dhhs.nc.gov]; Jones, LaShandra[Jones.Lashandra@epa.gov]; jillj@live.unc.edu[jillj@live.unc.edu]; [Ex. 6 - Personal Privacy]Peurifoy, Cynthia[Peurifoy.Cynthia@epa.gov]; Fawn Pattison[Ex. 6 - Personal Privacy]Tarver, Siobhan[Tarver.Siobhan@epa.gov]; awilkie@email.unc.edu[awilkie@email.unc.edu]; Omari Wilson[omari@landloss.org]; Steve Wing[steve_wing@unc.edu]; Belinda Joyner[Ex. 6 - Personal Privacy] Ericka Faircloth[ericka@cwfn.org]; Hope Taylor[hope@cwfn.org]; Devon Hall[Ex. 6 - Personal Privacy] Yolanda Anderson[yandersn@nccu.edu]; [Ex. 6 - Personal Privacy] Evon Connally[Ex. 6 - Personal Privacy] Patricia Torain[Ex. 6 - Personal Privacy] David Caldwell[Ex. 6 - Personal Privacy] robert campbell[Ex. 6 - Personal Privacy] Wdistmissy[Ex. 6 - Personal Privacy] Chris Heaney[cheaney1@jhu.edu]; hughes3@niehs.nih.gov[hughes3@niehs.nih.gov]; Savi Horne[savi@landloss.org]; Lee, Charles[Lee.Charles@epa.gov]; Kojo Wilson[Ex. 6 - Personal Privacy] Hawley Truax[hawleyt@zsr.org]; steve.fischbach[Ex. 6 - Personal Privacy] mengelmanlado@earthjustice.org[mengelmanlado@earthjustice.org]; leslie.fields@sierraclub.org[leslie.fields@sierraclub.org]; [Ex. 6 - Personal Privacy] Michelle Nowlin[Nowlin@law.duke.edu]; John Griffin[griffin@reospartners.com]; Tennessee, Denise[Tennessee.Denise@epa.gov]
From: Minter, Marsha
Sent: Fri 3/11/2016 10:32:18 PM
Subject: RE: Titan Cement drops plans for cement plant in NC!!

DITTO—this is truly a Happy Friday!!!

Marsha Minter

From: Ali, Mustafa
Sent: Friday, March 11, 2016 11:28 AM
To: Allie Sheffield <[Ex. 6 - Personal Privacy]>
Cc: ejstrategy <ejstrategy@epa.gov>; Minter, Marsha <Minter.Marsha@epa.gov>; Ayo Wilson <[Ex. 6 - Personal Privacy]> Patricia White <[Ex. 6 - Personal Privacy]> North Carolina Environmental Justice Network <[Ex. 6 - Personal Privacy]> Marilyn Marsh-Robinson <[Ex. 6 - Personal Privacy]> Sacoby Wilson <swilson2@umd.edu>; vbitting@sercap.org; kedesch.altidor@hhs.gov; Don Cavellini <[Ex. 6 - Personal Privacy]> Epps-Price, Lena <Epps-Price.Lena@epa.gov>; danirose@live.unc.edu; mercedes.hernandez-pelletier@dhhs.nc.gov; Jones, LaShandra <Jones.Lashandra@epa.gov>; [Ex. 6 - Personal Privacy]Peurifoy, Cynthia <Peurifoy.Cynthia@epa.gov>; Fawn Pattison <[Ex. 6 - Personal Privacy]> Tarver, Siobhan <Tarver.Siobhan@epa.gov>; [Ex. 6 - Personal Privacy]Omari Wilson

<omari@landloss.org>; Steve Wing <steve_wing@unc.edu>; Belinda Joyner
Ex. 6 - Personal Privacy Ericka Faircloth <ericka@cwfn.org>; Hope Taylor
<hope@cwfn.org>; Devon Hall Ex. 6 - Personal Privacy Yolanda Anderson
<yandersn@nccu.edu>; Ex. 6 - Personal Privacy Evon Connally Ex. 6 - Personal Privacy
Ex. 6 - Personal Privacy Patricia Torain Ex. 6 - Personal Privacy David Caldwell
Ex. 6 - Personal Privacy robert campbell Ex. 6 - Personal Privacy Ex. 6 - Personal Privacy
Chris Heaney <cheaney1@jhu.edu>; hughes3@niehs.nih.gov; Savi Horne
<savi@landloss.org>; Lee, Charles <Lee.Charles@epa.gov>; Kojo Wilson
Ex. 6 - Personal Privacy >; Hawley Truax <hawleyt@zsr.org>;
steve fischbach Ex. 6 - Personal Privacy mengelmanlodo@earthjustice.org; leslie.fields@sierraclub.org;
Ex. 6 - Personal Privacy Michelle Nowlin <Nowlin@law.duke.edu>; John Griffin
<griffin@reospartners.com>; Tennessee, Denise <Tennessee.Denise@epa.gov>
Subject: Re: Titan Cement drops plans for cement plant in NC!!

Allie & NC EJ Stakeholder Family,

Congrats to everyone on making your voices heard and your transformative vision for a healthier and more equitably sustainable community a reality. As you move forward in your planning, I look forward to finding ways to support your revitalization efforts.

Blessings

Mustafa Santiago Ali

Sent from my iPhone

On Mar 11, 2016, at 11:10 AM, Allie Sheffield Ex. 6 - Personal Privacy wrote:

I want to be sure that all of you know that Titan Cement officials announced yesterday that they are terminating their plans for the huge cement plant and limestone quarry in Castle Hayne, NC. So, we stopped Titan! All of us in the Wilmington area who have been fighting this for the past 7 years 11 months are in shock -- but it's giddy, happy shock. We really are euphoric. Of course Titan emphasized in its press release that the opposition to the plant had no impact whatsoever on their decision, but even their staunchest supporters know that's not true. Huge thanks and kudos to all of you who helped and supported us, we couldn't have done it without you! Special thanks to EPA's Mustafa Ali, Marsha Minter, Denise Tennessee, Sioban Tarver and Cynthia Puerifoy for being there for us.

Fortunately, this fight has been transformative for Wilmington and southeastern North Carolina. Folks have had to think about what future they want for this area, and a vast majority have concluded that it should not include more heavy industry. (We already have a lot of heavy industry.) We fought this heavy polluter off and now we hope & expect to change New Hanover County planning rules to prohibit additional heavy polluters. And this community will never again just sit by passively and let the powers that be get away with what they've been getting away with. Southeastern North Carolina will never be the same, and that's a very good thing.

Many people (up from about 3 people) here now know about Environmental Justice and understand how widespread and devastating environmental iniustice is in southeastern North Carolina. One of the highlights of the last 7 years and 11 months has been the support we've received from the EPA, especially the November 2015 site visit of 8 EJ folks from EPA Region 4, after NC DENR/DEQ repeatedly told us that EJ does not apply to North Carolina. Stop Titan coalition members NC Coastal Federation, Cape Fear River Watch, NC Sierra Club & PenderWatch & Conservancy along with the NAACP & REACH formed the Southeastern NC EJ Coalition in 2014, so we will have that going forward.

Again, thanks to every one of you for your support. When Titan announced in April, 2008 that it would build the cement plant, it said it would be operational by December, 2013, and bragged that it was a "fait accompli." Wrong, Titan. This is proof of the power of organizing.

Best,

Allie

Carolinas Cement website: <http://www.carolinascement.com/>

StarNews

article: <http://www.starnewsonline.com/article/20160310/ARTICLES/160319981/1177?Title=Titan-America-ends-effort-to-build-Castle-Hayne-cement-plant>

TITAN PULLS PLUG ON PLAN FOR \$450 MILLION CEMENT PLANT (Triangle Business Journal) - The project, however, had become controversial almost immediately after it was announced as some New Hanover residents formed opposition groups to protest any pollution and destruction of wetlands that the plant's construction and operation might cause.

<http://www.bizjournals.com/triangle/news/2016/03/10/titan-america-cement-plant-castle-hayne.html>

OPPONENTS OF PROJECT DECLARE VICTORY (WQHR-FM) - When news of a cement plant coming to Castle Hayne broke nearly eight years ago, it galvanized environmentalists into a force that became known as the Stop Titan Action Network.

<http://whqr.org/post/titan-cement-pulls-plug-new-facility-castle-hayne-opponents-project-declare-victory#stream/0>

LOCAL GROUPS HAPPY WITH PLAN TO DROP CEMENT PLANT (Port City Daily) -- Local environmental groups are declaring a win for area citizens after manufacturing company Titan America announced Thursday that they were suspending plans to build a cement plant in Castle Hayne.

<http://portcitydaily.com/2016/03/11/local-environmental-groups-happy-with-titan-announcement/> (Sierra Club Mention)

TITAN ABANDONS PLANS FOR CASTLE HAYNE CEMENT PLANT (Lumina News) -- The company said the economics behind building the plant did not support the high cost of construction. Meanwhile, environmental groups hailed the decision as a victory for those who fought construction of the plant on concerns over pollution.

<http://luminanews.com/2016/03/titan-abandons-plans-for-castle-hayne-cement-plant/> (Sierra Club Mention)

TITAN DROPS PLANS FOR CASTLE HAYNE CEMENT PLANT (Wilmington

Business Journal) - A company that has been at the heart of an economic development controversy for several years has decided not to pursue its plans to build a facility in New Hanover County.

http://www.wilmingtonbiz.com/more_news/2016/03/10/titan_drops_plans_for_castle_hayne_cement
(Sierra Club mention)

OPPONENTS CELEBRATE TITAN DECISION (Coastal Review Online) --
Longtime opponents cheered Titan America's announcement yesterday that the company was dropping its controversial plans for a cement plant near Wilmington but the news was a disappointment for those who saw the project as needed economic investment.

<http://www.coastalreview.org/2016/03/13416/>

To: Lee, Charles[Lee.Charles@epa.gov]
From: Marianne Engelman Lado
Sent: Fri 1/8/2016 5:02:00 PM
Subject: FW: Upcoming Hearings on the NPR
Letter to EPA re Hearings 01 07 16.pdf

Charles,

Happy New Year!

I wanted to make sure that you receive a copy of the letter sent to EPA yesterday about the hearings that start on Monday to solicit comments on OCR's Notice of Proposed Rulemaking. Current arrangements raise a whole host of EJ concerns.

I'd love to catch up some time soon.

Best,

Marianne

Marianne Engelman Lado

Senior Staff Attorney

Earthjustice

48 Wall Street, 19th Floor

New York, NY 10005

T: 212.845.7393

F: 212.918.1556

earthjustice.org



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To: Lee, Charles[Lee.Charles@epa.gov]
From: Emma Cheuse
Sent: Mon 11/2/2015 5:37:37 PM
Subject: RE: Plan EJ2020 follow-up

Charles,

Thanks so much for your note.

Very best regards,

Emma

Emma Cheuse

Staff Attorney

Earthjustice

1625 Massachusetts Avenue, N.W., Suite 702

Washington, DC 20036-2243

T: 202.745.5220 or 202.667.4500 Ext. 5220

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From: Lee, Charles [mailto:Lee.Charles@epa.gov]
Sent: Monday, November 02, 2015 12:34 PM
To: Emma Cheuse
Subject: RE: Plan EJ2020 follow-up

Hi Emma

Good hearing from you. I will be back in touch.

Thanks

Charles

From: Emma Cheuse [mailto:echeuse@earthjustice.org]
Sent: Monday, November 02, 2015 11:16 AM
To: Lee, Charles <Lee.Charles@epa.gov>
Subject: Plan EJ2020 follow-up

Charles,

Could we set a time to discuss and follow up as we talked about earlier in the summer?

Best regards,

Emma

Emma Cheuse

Staff Attorney

Earthjustice

1625 Massachusetts Avenue, N.W., Suite 702

Washington, DC 20036-2243

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To: Lee, Charles[Lee.Charles@epa.gov]
From: Emma Cheuse
Sent: Mon 11/2/2015 4:15:32 PM
Subject: Plan EJ2020 follow-up

Charles,

Could we set a time to discuss and follow up as we talked about earlier in the summer?

Best regards,

Emma

Emma Cheuse

Staff Attorney

Earthjustice

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delete the message and any attachments.

To: Alexander Rony[alexander.rony@sierraclub.org]
Cc: Lee, Charles[Lee.Charles@epa.gov]; Militscher, Chris[Militscher.Chris@epa.gov]; Lung, Tai[Lung.Tai@epa.gov]; Peurifoy, Cynthia[Peurifoy.Cynthia@epa.gov]
From: Tejada, Matthew
Sent: Thur 5/26/2016 3:21:37 PM
Subject: RE: Environmental Justice for Prisoners

Thank you Alex. We look forward to the conversation on the afternoon of Friday, June 10 from 3-3:45. Please confirm that this is the correct time and that everyone from your side has the necessary details.

Best,

Matthew

Matthew Tejada

Director - Office of Environmental Justice

Environmental Protection Agency

202-564-8047

From: Alexander Rony [mailto:alexander.rony@sierraclub.org]
Sent: Thursday, May 26, 2016 12:29 AM
To: Tejada, Matthew <Tejada.Matthew@epa.gov>
Cc: Lee, Charles <Lee.Charles@epa.gov>; Militscher, Chris <Militscher.Chris@epa.gov>; Lung, Tai <Lung.Tai@epa.gov>; Peurifoy, Cynthia <Peurifoy.Cynthia@epa.gov>; ejstrategy <ejstrategy@epa.gov>
Subject: Environmental Justice for Prisoners

Dear Mr. Tejada,

Attached is a petition from 12,681 individuals who would like to see a more proactive approach to protecting prisoners from toxic environments. We appreciate that you accepted our coalition's request to meet next month, and we are looking forward to discussing these issues in greater detail.

Best regards,

Alexander Rony

--

Alexander Rony

Sr. Digital Innovation Campaigner

Sierra Club

(415) 977-5739

To: Tejada, Matthew[Tejada.Matthew@epa.gov]
Cc: Lee, Charles[Lee.Charles@epa.gov]; Militscher, Chris[Militscher.Chris@epa.gov]; Lung, Tai[Lung.Tai@epa.gov]; Peurifoy, Cynthia[Peurifoy.Cynthia@epa.gov]; ejstrategy[ejstrategy@epa.gov]
From: Alexander Rony
Sent: Thur 5/26/2016 4:29:13 AM
Subject: Environmental Justice for Prisoners
[enviro-justice-prisoners_sierrarise_160524.pdf](#)

Dear Mr. Tejada,

Attached is a petition from 12,681 individuals who would like to see a more proactive approach to protecting prisoners from toxic environments. We appreciate that you accepted our coalition's request to meet next month, and we are looking forward to discussing these issues in greater detail.

Best regards,
Alexander Rony

--

Alexander Rony
Sr. Digital Innovation Campaigner
Sierra Club
(415) 977-5739

To: Lee, Charles[Lee.Charles@epa.gov]
From: Leslie Fields
Sent: Tue 5/24/2016 5:58:45 PM
Subject: Re: tried to call you.

His email is Ex. 6 - Personal Privacy

Email him first to find out when he's available to talk. (He has a whole other job aside from being president of the Sierra Club). thanks, Leslie

On Mon, May 23, 2016 at 9:03 PM, Lee, Charles <Lee.Charles@epa.gov> wrote:

Leslie

Thanks. Do you have Aaron Maier's contact info. I want to give him a call.

Thanks
Charles

Sent from my iPhone

On May 23, 2016, at 6:35 PM, Leslie Fields <leslie.fields@sierraclub.org> wrote:

Congratulations on EJ 2020. I'll try to get through as soon as I can. I received your vm & tried to call you back but I think I wrote down the number wrong (I do that all the time). thanks, Leslie

--

Leslie G. Fields
Director, Environmental Justice & Community Partnerships Program
Sierra Club
50 F Street NW, Eighth Floor
Washington, DC 20001
202-548-4586
Leslie.Fields@sierraclub.org
www.sierraclub.org/ejcp

--

Leslie G. Fields
Director, Environmental Justice & Community Partnerships Program
Sierra Club
50 F Street NW, Eighth Floor
Washington, DC 20001
202-548-4586

Leslie.Fields@sierraclub.org
www.sierraclub.org/ejcp

To: Leslie Fields[leslie.fields@sierraclub.org]
From: Lee, Charles
Sent: Tue 5/24/2016 1:03:08 AM
Subject: Re: tried to call you.

Leslie

Thanks. Do you have Aaron Maier's contact info. I want to give him a call.

Thanks
Charles

Sent from my iPhone

On May 23, 2016, at 6:35 PM, Leslie Fields <leslie.fields@sierraclub.org> wrote:

Congratulations on EJ 2020. I'll try to get through as soon as I can. I received your vm & tried to call you back but I think I wrote down the number wrong (I do that all the time).
thanks, Leslie

--

Leslie G. Fields
Director, Environmental Justice & Community Partnerships Program
Sierra Club
50 F Street NW, Eighth Floor
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To: Lee, Charles[Lee.Charles@epa.gov]
From: Leslie Fields
Sent: Mon 5/23/2016 10:34:59 PM
Subject: tried to call you.

Congratulations on EJ 2020. I'll try to get through as soon as I can. I received your vm & tried to call you back but I think I wrote down the number wrong (I do that all the time). thanks, Leslie

--

Leslie G. Fields
Director, Environmental Justice & Community Partnerships Program
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To: Lee, Charles[Lee.Charles@epa.gov]
From: Emma Cheuse
Sent: Wed 11/18/2015 2:18:12 PM
Subject: RE: Meeting on Thursday

Thanks - see you then.

Best,

Emma

Emma Cheuse

Staff Attorney

Earthjustice

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From: Lee, Charles [mailto:Lee.Charles@epa.gov]

Sent: Tuesday, November 17, 2015 5:07 PM
To: Emma Cheuse
Subject: Meeting on Thursday

Hi Emma

I look forward to our breakfast meeting on Thursday 11/19 (8 am) at Au Bon Pain (12th and E Streets NW). I wanted to get a better understanding of your comments on cumulative risk assessment submitted on June 28, 2013.

Thanks

Charles

To: Tejada, Matthew[Tejada.Matthew@epa.gov]; Lee, Charles[Lee.Charles@epa.gov]
Cc: Stephanie Maddin[smaddin@earthjustice.org]
From: Emma Cheuse
Sent: Tue 7/14/2015 8:33:54 PM
Subject: FYI: FILED Draft EJ 2020 Action Agenda Framework Comments submitted by Earthjustice
Plan EJ2020 Comments.pdf

Dear Matt and Charles, Just a courtesy FYI on the comments we filed today. Very best regards,
Emma Ex. 6 - Personal Privacy

From: Albert Lin
Sent: Tuesday, July 14, 2015 4:15 PM
To: 'ejstrategy@epa.gov'
Cc: Emma Cheuse; Adrian Martinez; Marianne Engelman Lado; Stephanie Maddin
Subject: Draft EJ 2020 Action Agenda Framework Comments submitted by Earthjustice

July 14, 2015

Please accept the attached Comments submitted via e-mail on:

Draft EJ 2020 Action Agenda Framework..

These comments are submitted by Earthjustice on behalf of Air Alliance Houston; Alaska's Big Village Network; Apostolic Faith Center; California Communities Against Toxics; California Kids IAQ; California Safe Schools; CATA – The Farmworkers Support Committee; Center for Effective Government; Citizens Against Ruining the Environment; Citizens' Environmental Coalition; Citizens for Clean Air; Clean Air Council; Clean and Healthy New York; Clean Water and Air Matter; Coalition For A Safe Environment; Comite Civico del Valle; Comité Diálogo Ambiental, Inc.; Community Dreams; Community In-Power and Development Association; Community Science Center; Del Amo Action Committee; Desert Citizens Against Pollution; Diesel Health Project; Downwinders At Risk; East Yard Communities for Environmental Justice; 48217 Community and Environmental Health Organization; Farmworker Association of Florida; Institute of Neurotoxicology & Neurological Disorders; Jesus People Against Pollution; Kentucky Environmental Foundation; Martinez Environmental Group; Mossville Environmental Action Now; Natural Resources Defense Council; Neighbors for Clean Air; New Mexico Environmental Law Center; North Carolina Coastal Federation; PenderWatch & Conservancy; Pesticide Action Network North America; Sierra Club; Southeastern North Carolina Environmental Justice

Coalition; Southern Appalachian Mountain Stewards; Steps Coalition; The City Project; The Original United Citizens of Southwest Detroit; Tri-Valley CARES; West End Revitalization Association; and Earthjustice.

Additionally, appendix documents accompanying these Comments have been submitted via 4 separate emails.

/s/ Albert Lin (for Emma C. Cheuse)

Albert Lin

Litigation Assistant

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

**Draft EJ 2020 Action Agenda Framework
(June 15, 2015)**

*Submitted via e-mail - July 14, 2015
to ejstrategy@epa.gov*

COMMENTS OF ENVIRONMENTAL AND COMMUNITY GROUPS

AIR ALLIANCE HOUSTON; ALASKA'S BIG VILLAGE NETWORK; APOSTOLIC FAITH CENTER; CALIFORNIA COMMUNITIES AGAINST TOXICS; CALIFORNIA KIDS IAQ; CALIFORNIA SAFE SCHOOLS; CATA – THE FARMWORKERS SUPPORT COMMITTEE; CENTER FOR EFFECTIVE GOVERNMENT; CITIZENS AGAINST RUINING THE ENVIRONMENT; CITIZENS' ENVIRONMENTAL COALITION; CITIZENS FOR CLEAN AIR; CLEAN AIR COUNCIL; CLEAN AND HEALTHY NEW YORK; CLEAN WATER AND AIR MATTER; COALITION FOR A SAFE ENVIRONMENT; COMITE CIVICO DEL VALLE; COMITÉ DIÁLOGO AMBIENTAL, INC.; COMMUNITY DREAMS; COMMUNITY IN-POWER AND DEVELOPMENT ASSOCIATION; COMMUNITY SCIENCE CENTER; DEL AMO ACTION COMMITTEE; DESERT CITIZENS AGAINST POLLUTION; DIESEL HEALTH PROJECT; DOWNWINDERS AT RISK; EAST YARD COMMUNITIES FOR ENVIRONMENTAL JUSTICE; 48217 COMMUNITY AND ENVIRONMENTAL HEALTH ORGANIZATION; FARMWORKER ASSOCIATION OF FLORIDA; INSTITUTE OF NEUROTOXICOLOGY & NEUROLOGICAL DISORDERS; JESUS PEOPLE AGAINST POLLUTION; KENTUCKY ENVIRONMENTAL FOUNDATION; MARTINEZ ENVIRONMENTAL GROUP; MOSSVILLE ENVIRONMENTAL ACTION NOW; NATURAL RESOURCES DEFENSE COUNCIL; NEIGHBORS FOR CLEAN AIR; NEW MEXICO ENVIRONMENTAL LAW CENTER; NORTH CAROLINA COASTAL FEDERATION; PENDERWATCH & CONSERVANCY; PESTICIDE ACTION NETWORK NORTH AMERICA; SIERRA CLUB; SOUTHEASTERN NORTH CAROLINA ENVIRONMENTAL JUSTICE COALITION; SOUTHERN APPALACHIAN MOUNTAIN STEWARDS; STEPS COALITION; THE CITY PROJECT; THE ORIGINAL UNITED CITIZENS OF SOUTHWEST DETROIT; TRI-VALLEY CARES; WEST END REVITALIZATION ASSOCIATION; AND EARTHJUSTICE

The U.S. Environmental Protection Agency is currently taking public comment on its proposed action agenda for a new strategic plan on environmental justice, to be called Plan EJ2020. EPA has stated specific objectives it is considering including as areas of focus for this new plan. The undersigned commenters recommend that EPA put the bulk of its attention, authority, commitments, and resources into two of these areas: demonstrating progress on outcomes that matter to overburdened communities; and creating specific tools and initiatives that will assist with achieving this progress.

Many community members and organizations are submitting additional comments. This set of comments aims to supplement and emphasize cross-cutting actions that would advance environmental justice across the broad spectrum of the important issues that affect communities.

These comments focus on the following components that EPA should commit to include as top priorities in Plan EJ2020, as described below.

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To demonstrate that EPA is achieving progress, EPA must make commitments and take *substantive* action to reduce environmental health disparities, not merely create more commitments on *process* as its prior guidance documents have done.

EPA must look at, assess, and set goals to achieve improved outcomes for the health and protection of the environment for communities of color, low-income, and indigenous people. A long history of discrimination and neglect has produced socioeconomic inequality and has made people of color and low-income people more vulnerable to the harms of pollution, and with the least access to safe and healthy environments and natural areas.

The objective of Executive Order 12898 is not just to increase protection for all and leave disparities in place – it is to “make achieving environmental justice part of [each Federal agency’s] mission.”¹

To achieve this objective, EPA needs to set metrics that assure:

- (1) The agency is targeting its resources to ensure that people of color and low-income people are experiencing the outcomes of its work as measurable, direct benefits and protections;
- (2) The agency is achieving the best possible, and greatest achievable results on the ground, in terms of such health and environmental outcomes; and
- (3) EPA is targeting and taking particular actions that aim to reduce the greater rate of environmental threats and impacts that are occurring for particular communities, correlated with and connected to their race and socioeconomic status, not just strengthen protections in some way and call its work done.

A. Increase Agency Resources and Action Focused on Hot Spots: Vulnerable Communities with Disproportionate Need

To achieve objective one, EPA must ensure that it expands resources and prioritizes its existing resources to reach the communities that are overburdened by pollution or other toxic exposures and have disproportionate representation of vulnerable communities of color and low-income people.

For example, for fiscal year 2015, EPA has created a “Making A Visible Difference In Communities” project, where it has selected 50 communities nationwide for particular attention and resources.² To achieve its environmental justice objectives, in Plan EJ2020 EPA must do more than just choose these 50 communities to make a “visible difference.” And, EPA must do more than just consider issues related to “smart growth.”

First, EPA should commit to direct resources and apply its authorities to all overburdened communities meeting key criteria, not just select a limited number.

Second, EPA should use environmental justice factors to choose communities that will receive additional attention, action, and resources. For the 2015 project, it is unclear whether or how environmental justice factors were included in EPA’s determination of which communities would be part of this project. It is unclear whether all of the communities EPA has chosen are

¹ Exec. Order No. 12,898 § 1-101, 59 Fed. Reg. 7,629, 7,629 (Feb. 11, 1994).

² EPA, *Making a Visible Difference in Communities*, <http://www2.epa.gov/smart-growth/making-visible-difference-communities> (last updated May 26, 2015).

the communities with the greatest need for environmental and health protection, that they are hot spots, or that they are communities with particular environmental justice concerns. EPA should provide transparency and an opportunity for further input, and should extend such opportunities to communities who may not have had a prior opportunity to provide input, and who seek to receive the additional protection and attention that this project will provide.

In particular, as part of Plan EJ2020, EPA should develop an expansive list of all known hot spot communities or areas that have environmental justice concerns, and that need further review, agency action, and attention, after taking public notice and comment. EPA should create this list using factors such as the following:

- (1) the factors contained in EJSCREEN;
- (2) additional health status and health disparity factors included in CalEnviroScreen,³ and any other valuable state tools;
- (3) additional indicators that are also linked with environmental justice, public health, and EPA's statutory authorities, such as:
 - whether an area is in nonattainment for a criteria pollutant;
 - whether an area has elevated cancer risks, as identified in EPA's Second Integrated Urban Air Toxics Report⁴;
 - whether an area has elevated levels of drinking water or soil contamination, including from legacy pollution or ghost industrial sites⁵;
 - whether a community has Superfund and/or brownfield sites;
 - whether a community includes facilities with a high number of violations of environmental laws;
 - whether a community includes major sources regulated under EPA's air toxics and other permitting programs;
 - whether a history of segregation, racial zoning, redlining, and similar forms of discrimination played any role in the proximity between majority-minority neighborhoods and industrial sources, highways, and other pollution sources;
 - whether a community includes a port or goods movement/transportation hub, and/or is located along or in close proximity to an international border or point of entry including both the U.S.-Mexico, and the U.S.-Canada borders;
 - whether an area contains mining and/or oil and gas resources or extraction activities;

³ Cal. EPA Ofc. Of Envntl. Health Hazard Assessment ("OEHHA"), *CalEnviroScreen Version 2.0*, <http://oehha.ca.gov/ej/ces2.html> (last updated Nov. 10, 2014).

⁴ EPA, *The Second Integrated Urban Air Toxics Report to Congress* (Aug. 21, 2014), available at <http://www2.epa.gov/sites/production/files/2014-08/documents/082114-urban-air-toxics-report-congress.pdf>.

⁵ See, e.g., USA Today, *Ghost Factories*, <http://www.usatoday.com/topic/B68DCD3E-7E3F-424A-BDA4-41077D772EA1/ghostfactories/>.

- whether a community is located in a geographical region or area that is particularly susceptible to extreme drought impacts, sea level rise, or other impacts from natural and climate-change related disasters;
- whether a community is located on tribal land, or may otherwise be linguistically or geographically isolated;
- whether a community is in proximity to one or more facilities that store or use hazardous chemicals⁶;
- whether a community relies on subsistence farming, fishing, or hunting;
- whether an area is largely agricultural, resulting in community members being exposed to pesticides;
- whether a community has been the site of repeated environmental health or safety emergencies;
- whether an area is identified by other state or federal agencies (including HUD, USDA or DOT) or initiatives such as Partnership for Sustainable Communities, Sustainable Communities/Strong Communities (“SC2”); and
- whether a community has equal and meaningful access to parks, green space, and the ability to enjoy natural areas.

Third, for all identified hot spot communities, EPA should commit to target its resources and authorities, and create an “all hands on deck” approach for environmental justice.

For EPA’s existing communities list in the “Making a Visible Difference” project, it is unclear whether community-specific plans have been or are being developed to protect these communities, or who is involved in this process other than the regional staff. For the full Plan EJ2020 list, EPA should direct all offices, departments, and relevant staff at the national and regional level to create a plan that assesses and uses specific authorities, resources, and actions to make progress to protect these hot spot communities, after taking public comment, and publish these plans. As part of these action plans for hot spot communities, EPA should commit to: (1) increase enforcement and compliance of all existing requirements applicable; (2) reduce air, water, and waste pollution and toxic exposure, including through use of EPA’s rulemaking, permitting, and chemical and product control authorities; (3) increase environment-related health protections and reduce environment-related health problems such as asthma, early mortality including infant mortality, cardiovascular problems, cancer, lost school and work days, high blood-lead levels, mercury and other toxin-burdens measured, and other health factors of importance; and (4) improve monitoring, pollution and health information, technical assistance, and other tools available to help communities protect their own health and environment.⁷

⁶ See, e.g., Env’tl. Justice and Health Alliance for Chem. Policy Reform, *Who’s In Danger?* (May 2014), available at <http://comingcleaninc.org/assets/media/images/Reports/Who's%20in%20Danger%20Report%20FINAL.pdf>.

⁷ Further information on these issues is discussed later in these comments. As one example, EPA needs to require that safety information on pesticide labels appear in Spanish as well as English so that farmworkers, who are overwhelmingly Latino, know how to protect themselves.

During the course of Plan EJ2020, EPA should regularly audit and include achievement of pollution reductions, health protections, and compliance progress in hot spot communities as part of all relevant EPA staff's performance reviews and staff reports. EPA should include community groups within the hot spot communities or areas of environmental justice concern as part of the progress audit process. EPA should publish regular reports on all actions taken to provide relief in hot spot communities, and a final report on progress achieved or in process as of 2020.

Notably, each regional office has a shortage of staff capacity to address the state-specific and local environmental justice issues facing some of their most vulnerable and overburdened communities, as well as to enforce regulations intended to protect vulnerable communities such as farmworkers. Indeed, some, if not many, regional offices have fully disbanded their environmental justice staffs, and are entirely dependent on the volunteer hours of committed program staff to address pressing environmental justice issues and impacts. When program staff who have full-time commitments to other areas of work are expected to devote extra, unpaid hours to address cumulative health and pollution issues facing environmental justice communities, there can be no realistic expectation that such issues are actually being adequately addressed. It is imperative that EPA back its commitments to achieving tangible environmental justice outcomes with full time staff and programmatic commitments beyond the agency's Washington, D.C. office, and throughout the reach of the regional offices. In order to make environmental justice outcomes a reality for many the nation's most impacted and overburdened communities, EPA must back its commitments with real human, financial, and programmatic resources in each of its regional offices, as well as action plans that staff must implement there.

As further examples of communities that greatly need attention, see the community impact reports previously submitted to EPA in connection with the agency's request for information on cumulative risk and impact assessment, and on the refineries rule.⁸

B. Achieve Health and Environmental Outcomes and Reduce Injustice

In response to EPA's request for comment on example metrics to use in assessing success on environmental justice concerns and in communities where people of color and low-income people are disproportionately affected by pollution, toxic exposures, and EPA's program actions, here is a list of some example metrics that EPA should be considering. The important points are: (1) focus on actual on-the-ground health impacts and not just EPA's abstract environmental metrics (which may show progress but not anywhere near the progress communities need and want); and (2) assess whether EPA is actually addressing and working toward justice and equity, *i.e.*, not merely whether EPA has strengthened protection, but whether or not EPA has actually achieved any progress to reduce the disproportionate and unjust nature of the exposures and other impacts or made a meaningful difference to a particularly affected community. As EPA did not provide any real guidance on this question in the action framework document, we

⁸ See, *e.g.*, Comments of Environmental and Community Groups: Addendum A – Community Impact Report (Oct. 28, 2014), EPA-HQ-OAR-2010-0682-0568; Comments of Air Alliance Houston, *et al.*: Appendix E – Stories From Communities Overburdened by Pollution (June 28, 2013), EPA-HQ-ORD-2013-0292-0133.

encourage EPA to publish a list of potential metrics for substantive objectives, including and in addition to the below, that it is actually considering and take further comment on this question, before determining the metrics it will use to assess success.

Progress Objective	Essential Metrics	Key Additional Metrics To Prevent Ongoing Injustice
Pollution	<p>Reduce air emissions, water contamination discharges, waste – for the most exposed and most vulnerable populations. Fine-scale studies may be needed where census tract- or even neighborhood-level may be too coarse.</p> <p>Using EJSCREEN and other relevant factors, track pollution burdens by race, income, and other socioeconomic factors, and report on whether they are both being reduced and becoming less disproportionately distributed in communities with environmental justice concerns.</p>	<p>Assess whether the amounts reduced are comparable to what has been achieved using the best available pollution controls and practices in other communities that have achieved the greatest reductions in similar pollution; and whether the amounts reduced reflect the maximum achievable levels of pollution reductions.</p> <p>In determining whether ambient pollution levels and toxic exposures have declined, EPA must base its assessment on reductions to the most exposed and most vulnerable populations.</p>
Health	<p>Increase health protection, particularly from environmentally-associated illnesses including pediatric and adult asthma, chronic obstructive pulmonary disease (“COPD”) and other respiratory problems, cardiovascular disease, cancer, birth defects and reproductive harm, diabetes – particularly for the most vulnerable community members, including children and the elderly.</p>	<p>Compare results to communities with least pollution and highest health scores; set disparity reduction goals and reduce disparities; assess whether the best available protection is achieved for children, in utero and early life exposure, and for communities with socioeconomic stressors that increase vulnerability.</p>

Progress Objective	Essential Metrics	Key Additional Metrics To Prevent Ongoing Injustice
Enforcement and Compliance	Achieve compliance and create disincentives to violate environmental laws. Assess cases brought; success achieved; and environmental and health results achieved from these cases.	Show direct compliance results in targeted communities, compared with communities with the best compliance records, and include community input on the results of enforcement cases, to benefit immediate communities affected.
Clean Up Contaminated Sites including Superfund, and Expand Access to Healthy Green Space and Natural Areas	<p>Identify more sites in priority areas and assure effective clean up progress, results, and success.</p> <p>Prioritize protecting and expanding free access to parks, healthy green space, and natural areas for communities of color and low-income communities.</p>	Apply best practices and achieve best results in speed, amount and rate of clean up, public information and participation, access to clean and healthy natural areas, and community satisfaction in the results, as have occurred in communities without EJ concerns.
Products, Chemicals, and Pesticides	<p>Reduce the number of chemicals that have not been assessed for toxicity, or have not been updated to reflect that they are particularly harmful early in life; that are persistent or bioaccumulative, or have only been assessed for one type of toxicity.</p> <p>Reduce unhealthy chemicals and product use in targeted communities, from pesticides to toys, home cleaning, and other consumer products.</p> <p>Cancel the most toxic agricultural pesticides handled by farmworkers and to which they and other community members are exposed.</p>	Assess results by comparison with best practices and outcomes achieved in some communities; focus on chemicals most known to be present in communities with environmental justice concerns, and on pesticides that are disproportionately associated with farmworker poisonings.

C. Set Action Commitments and Evaluate Progress in Achieving Each of the EJ Metrics Outlined to the Agency in Prior Reports and Comments that Focus at the Regional and Local Level, As Well As the National Level.

EPA should (1) create the above-described cross-cutting projects and metrics to achieve progress across a number of issues; and (2) direct its staff to assess progress in resolving environmental justice concerns raised on many different issues nationally, regionally, and locally.

On the latter, we direct EPA's attention, for example, to the 2010 Lawyers' Committee for Civil Rights Under Law report.⁹ That report provides a list of important issues that EPA should seek a status report from its staff on to determine if any EJ progress is being made in program areas, and to commit to do so, where progress is not being made. Those policy recommendations cover the following areas, among others:

- Title VI of the Civil Rights Act of 1964, p. 68
- EPA Office of Civil Rights ("OCR"), p. 68
- Environmental Enforcement, p. 68
- Toxic Air Pollution, p. 71
- Coal Mining, p. 71
- Power Generation from Coal, p. 71
- Cessation of Mountaintop Removal Mining, p. 72
- Regulation of Coal Combustion Waste, p. 72
- Healthy Schools, p. 73
- Climate Change, p. 74
- Green Jobs, p. 75
- Transportation, p. 76
- Housing and Urban Development, p. 76
- Public and Environmental Health, p. 77
- Homeland Security and Emergency Response, p. 78
- Federal Facilities, p. 78
- Gulf Coast Restoration and Hurricane Impacts, p. 79
- Semi-Urban and Rural Areas, p. 79
- Industrial Animal Production, p. 79
- Sewer and Water Infrastructure, p. 79
- Land Loss, p. 79
- Food Security and Federal Agriculture Policy, p. 79
- Indian Country, p. 80
- Canadian Border, p. 81
- Mexican Border, p. 81.¹⁰

⁹ Lawyers' Committee for Civil Rights Under Law, *Now Is The Time: Environmental Injustice in the U.S. and Recommendations for Eliminating Disparities* (June 2010), available at <http://www.lawyerscommittee.org/admin/site/documents/files/FinalEnvironmental-Justice-Report-6-9-10.pdf>.

¹⁰ *Id.* at 68-81.

In addition, EPA should consider all comments received as part of prior rulemakings, and as part of this planning process, on other important issues with an environmental justice dimension, including but not limited to: issues involving goods movement (*see, e.g.*, Comments of Moving Forward Network (submitted on Plan EJ2020)¹¹; chemical facility safety and security, including the need to protect public health and safety from refineries (*see, e.g.*, Petition of United Steelworkers *et al.* to EPA to Exercise Its Authority Under Section 112(r) of the Clean Air Act to Prevent Chemical Disasters (July 25, 2012); *Who's In Danger?*, *supra* n.6¹²; Comments of Environmental and Community Groups on EPA's Refineries Rule Proposal (Oct. 28, 2014)¹³; and the Letter from the National Environmental Justice Advisory Council to EPA on the Refineries Rule (May 21, 2015)); the need for stronger national ozone and other air and air toxics standards from power plants and other sources, as submitted to EPA previously in various rule dockets; toxic air and land use permitting programs and enforcement (Comments of the California Environmental Justice Alliance (submitted on Plan EJ2020)); the need for meaningful public participation in issues surrounding failing sewage systems, conversion of land to landfills, remediating groundwater contamination from historic hazardous waste dumping, and ameliorating harmful effects of massive industrial hog and poultry operations (*see, e.g.*, Comments of North Carolina Community Groups (submitted on Plan EJ2020)), the need for improved worker protection standards for farmworkers and the prevalence of unsafe and unhealthy products and practices like dangerous pesticide spraying in communities of color and low-income communities (*see, e.g.*, Comments of Farmworker Justice and Earthjustice, *et al.* (Aug. 18, 2014)¹⁴).

We highlight in particular that noxious air pollution from large industrial and transportation-related sources has presented a serious health crisis in underserved communities across the country. That is partly why these Comments emphasize the need for cross-cutting tools and projects that would particularly help translate into stronger air monitoring, standards, and enforcement, if EPA prioritized these issues in Plan EJ2020. Recent reports on the harm caused by soot, and the link between asthma and weak national air standards for ozone and other pollutants, provide helpful information on this issue and the disparities of air pollution exposures and impacts.¹⁵

¹¹ See also Nat'l Env'tl. Justice Advisory Council ("NEJAC"), *Reducing Air Emissions Associated With Goods Movement: Working Towards Environmental Justice* (Nov. 2009), available at <http://www.epa.gov/environmentaljustice/resources/publications/nejac/2009-goods-movement.pdf>.

¹² See also Improving Chemical Facility Safety and Security, Exec. Order No. 13,650, 78 Fed. Reg. 48,029 (Aug. 1, 2013); Ctr. For Effective Gov't, *Kids in Danger Zones* (Sept. 2014), available at <http://www.foreffectivegov.org/files/kidsin-danger-zones-report.pdf> (One in three U.S. schoolchildren goes to school within the vulnerability zone of a hazardous chemical facility.).

¹³ EPA-HQ-OAR-2010-0682-0568 ("Refineries Comments"); *see also* Coalition to Prevent Chemical Disasters, *Home*, <http://preventchemicaldisasters.org>.

¹⁴ EPA-HQ-OPP-2011-0184-2434.

¹⁵ See, e.g., Am. Lung Ass'n, *State of the Air 2015* (2015), available at <http://www.stateoftheair.org>; Am. Lung Ass'n, *et al.*, *Sick of Soot: How the EPA Can Save Lives by Cleaning Up Fine Particle Pollution* (Nov. 2011), available at <http://www.catf.us/resources/publications/files/SickOfSoot.pdf>; M. Ash, *et al.*,

For example, a 2013 study by the Massachusetts Institute of Technology reported that Baltimore, Maryland – a city that is predominately black and home to many highly concentrated socio-economically distressed neighborhoods – had the highest emissions-related mortality rate of over 5,600 U.S. cities studied.¹⁶ Fueling this problem are the exceedingly high levels of fine particulate matter- and ozone-producing volatile organic compounds (“VOCs”) and nitrogen oxides (“NOx”) emissions from cars, trucks, and buses that occupy the Baltimore-area’s congested highways and narrow streets, as well as local coal-fired power plants. The deleterious impact of air pollution on public health in Baltimore is reflected by the fact that an alarming 20% of children in Baltimore City have asthma (more than double the national average), and the city’s pediatric asthma hospitalization rate is among the highest in the nation.¹⁷ In addition, across the state, black Marylanders are nearly 2.5 times more likely to die from asthma than white Marylanders. Air pollution and resulting harm to environmentally burdened communities in the City and surrounding areas are likely to increase significantly if the Port of Baltimore expands and brings in fleets of large diesel trucks and rail cars to move goods and other cargo in and out of the Baltimore.

Low-income communities and communities of color in and near many other major cities, from Houston to Los Angeles to Chicago to New York and Newark, are facing similar problems that require immediate attention from EPA at the national and local levels. EPA’s own Second Integrated Urban Air Toxics Report and the American Lung Association’s State of The Air provide strong illustrations of key work that EPA must do to recognize the strong link between national air standards, health, and the disproportionate impacts felt by environmental justice communities. In order to address these impacts, EPA must take active and immediate steps to protect communities from harmful air pollution.¹⁸ As discussed in comments and reconsideration petitions submitted by community groups into the dockets of these rules, EPA’s air standards for power plants, refineries, and other sources causing disproportionate harm to communities of color and low-income communities provide an important opportunity and duty for EPA to take meaningful action to protect communities by setting health-protective standards,

Justice in the Air: Tracking Toxic Pollution from America’s Industries and Companies to Our States, Cities, and Neighborhoods (Apr. 2009); Black Leadership Forum, *et al.*, *Air of Injustice: African Americans and Power Plant Pollution* (Oct. 2002); Am. Lung Ass’n, *Too Many Cases, Too Many Deaths: Lung Cancer in African Americans* (2010), available at <http://www.lung.org/associations/states/california/assets/pdfs/too-many-cases-too-many.pdf>; Am. Lung Ass’n, *State of Lung Disease in Diverse Communities: 2010* (2010), available at http://www.lung.org/assets/documents/publications/lung-disease-data/solddc_2010.pdf; NAACP *et al.*, *Coal Blooded: Putting Profits Before People*, <http://www.naacp.org/pages/coal-blooded1>.

¹⁶ F. Caiazzo, *et al.*, *Air pollution and early deaths in the United States*, 77 Atmospheric Env’t 198, 205 (2013), available at <http://lae.mit.edu/wordpress2/wp-content/uploads/2013/08/US-air-pollution-paper.pdf>.

¹⁷ Baltimore City Health Dep’t, *Asthma*, <http://health.baltimorecity.gov/node/454>.

¹⁸ See *supra* nn.4, 15 (*State of the Air* 2015).

and standards that assure the maximum achievable degree of pollution protection, and by requiring the best available fence-line monitoring and enforceability measures.¹⁹

There is a great need also for EPA and each regional office, specifically, to seek community input on important regional issues and hot spots, and national issues of particular regional concern. EPA should require all regions to create action plans, with input and help from states, local governments, and community members, and include concrete action and progress metrics in each plan that will help ensure every region sees on-the-ground benefits from Plan EJ2020 that are tailored to the communities' needs in that region. Commenters encourage EPA to require regions to seek input more broadly and increase transparency in how they are implementing EPA's environmental justice objectives, including through creating updated concrete action plans of their own with direct and significant input from local community groups.

Commenters note that Region 2 has provided an environmental justice action plan on its website that includes some significant objectives and concrete projects.²⁰ But, formal planning is not translating into sufficient change on the ground. For example, although there are identified liaisons between Region 2 and affected Tribes, these liaisons are not conferred with sufficient authority and are not always included in relevant meetings. Ultimately, metrics of performance are critical to determine impact on the ground and with input from community stakeholders. EPA should evaluate changes that would ensure that action items produce outcomes that matter to overburdened communities.

Many, if not most, other EPA Regions do not even have such plans in place, or have only permitting-specific plans.²¹ These are important efforts, but it is unclear to Commenters how those plans were created, whether community input was received in designing them, and what kinds of reports and updates will be provided to assure ongoing community input in assessing progress in achieving the objectives these reports include. EPA must provide educational opportunities, information, and training so that communities *can* participate in comment periods for draft permits and in public hearings. The permitting plan discusses working with other offices, but often, community groups do not feel that their voices are heard by the actual decision-makers. One suggestion would be a permit ombudsperson, with whom a community group could talk, to find out information and express its concerns in situations where the regional office and HQ rule-writer staff are not responsive to or actively engaging community members. EPA staff must be directed to listen to and weigh seriously the concerns raised by community members and this ombudsperson.

¹⁹ See, e.g., EPA, *Rules and Implementation*, <http://www.epa.gov/ttn/atw/eparules.htm> (last updated May 22, 2015) (listing rules).

²⁰ See EPA Region 2, *Environmental Justice Action Plan* (2014), available at http://www.epa.gov/region2/ej/region_2_environmental_justice_action_plan.pdf. We note, however, that although there are large farmworker communities in Region 2, the Action Plan does not mention the EJ community of farmworkers.

²¹ EPA, *Considering Environmental Justice in Permitting: Regional Implementation Plans and Contacts*, <http://www.epa.gov/environmentaljustice/plan/ej/permitting.html#regions> (last updated Apr. 2, 2014).

Furthermore, these documents state that EPA is planning to use EJSCREEN to identify affected communities. This is important as a starting point, but it is not enough not only because the tool is incomplete and needs to be strengthened as part of the input process EPA has created, but also because EPA needs to reach out to community groups actively. For example, EPA should create lists of past community group commenters and engage them early, actively, and directly on similar matters affecting their communities. EPA must develop a method that allows a community group to identify itself or register or utilize some way to make their presence known. Gathering demographic information is important, but this alone does not assure identification and involvement of the community groups and leaders who can help inform EPA action. The permitting plans also call for encouraging activities by the permit applicant – but this assumes that there is a positive relationship between the permittee and the community – and often that is not the case. Once again, this illustrates the importance of early community identification and engagement, which involves outreach activities, not just data analysis (which is important, but not enough).

Many of the regions also cover vast and dramatically diverse geographic areas – with Region 9 as one good example of this. The states encompassed in the region are home to a wide array of industries ranging from pervasive and often extreme oil, mineral, and other natural resource extraction and refining, to widespread commercial agricultural production, and from heavy ship, truck, and railroad traffic facilitating the movement of goods and labor from the region's ports and other points of entry along the U.S.-Mexico border, to some of the nation's most robust and concentrated technology and computer science development. As a result of these all-too-often highly polluting and toxic activities, communities of color, including many immigrant and linguistically isolated communities, low-income communities, and tribal communities experience a range of substantial environmental justice impacts. As such, the region is also home to a robust network of groups and organizations that engage in rigorous advocacy to address local, state-wide, and national environmental justice concerns. As an example, Commenters attach comments submitted by the People's Senate, including a one-year roadmap, urging reforms of California's Department of Toxic Substances Control to strengthen community protections and address environmental justice problems.²² Many, if not all, of these recommendations would also be valuable for EPA to use in strengthening other states' programs, as discussed elsewhere in these comments.

Due to the vast expanse of this region, and other similar regions, we strongly urge EPA to integrate each regional office in a state-by-state evaluation of how state-level agencies are engaged in incorporating environmental justice principles into their own permitting and enforcement practices. This will not only help EPA to adequately assess the environmental justice issues facing these large regions, but it will also enable EPA to better evaluate the region's progress towards achieving environmental justice objectives. State-level communication, cooperation, and oversight are also key to ensuring, rather than merely considering, environmentally just permitting and enforcement decisions. As a starting point, all

²² Letter to Barbara Lee, Dir., Cal. Dep't of Toxic Substances Control, from The People's Senate (Mar. 27, 2015); Ctr. on Race, Poverty & the Env't, *The People's Senate: Building a New Vision for DTSC* (Aug. 2014), available at http://www.crpe-ej.org/crpe/images/stories/pdf/FINAL_PeoplesSenateReport.pdf.

regions could follow the lead of a region that has first assigned an environmental justice coordinator to be a liaison for one (or more) dedicated states, allowing them to aim to become an expert on environmental justice concerns in that state, and work closely with community group representatives from the assigned state.

As a part of this particular effort, we further recommend that EPA exercise its oversight authority to set specific, standardized permitting and enforcement criteria that must be followed by state agencies issuing and/or enforcing hazardous waste, air, and water permits to operate; permits to construct; closure or post-closure clean-up and remediation permits under the Clean Air Act, the Clean Water Act, and the Resource Conservation and Recovery Act; as well as enforcing Worker Protection Standards for agricultural workers under the Federal Insecticide, Fungicide, and Rodenticide Act, among others. Such standards should plainly incorporate strong metrics to account for existing cumulative health and environmental burdens in the areas in which new polluting facilities are proposed, or have already been sited and are operating, and should ensure that adequate financial assurances are obtained and safeguarded prior to issuing permit modifications, new permits, or post-closure permits. These standards should also include metrics for ensuring that safeguards for workers and members of the community are rigorously enforced.

Beyond engaging with each state-level agency in the region, we further recommend that EPA reach out to and engage with local and municipal agencies and governments, as well as tribal governments, who have decision-making power over land use and permitting decisions that detrimentally and disproportionately impact communities of color and low-income communities in all of each region's states. Engaging with such agencies would directly assist EPA in ensuring meaningful inter-agency co-operation to achieve environmental justice goals, as contemplated in both its 2014 and 2020 EJ plans. For example, EPA's Enhanced Public Participation during permit review is a document EPA should promote with state and local governments to increase community engagement and input. At the same time, EPA needs to work with states to assist and require them to do more than just expand process steps or public participation, but also to set and achieve substantive environmental justice objectives, as discussed above for EPA itself.²³

We also strongly recommend that EPA exercise its authority to support the existing and future efforts of the regional offices to engage in program development aimed at addressing climate change impacts, adaptation, and mitigation on environmental justice communities. Across many regions, environmental justice groups are at the forefront of resiliency planning, conducting research, and identifying innovative strategies,²⁴ and must be involved as leaders in EPA's national and regional actions on global warming.

²³ As a survey of environmental justice policies showed, many states have procedural steps or requirements in place, but those are insufficient alone, without additional substantive limits, measures, targets, and requirements, to actually reduce the amount of pollution, toxic exposures, and environmental injustices that communities face. See J. Owley, *et al.*, *Symbolic Politics for Disempowered Communities: State Environmental Justice Policies*, Buffalo Legal Studies Research Paper Series, Paper No. 2014-036, Brigham Young Univ. J. of Pub. L. (2014), <http://ssrn.com/abstract=2425833>.

²⁴ See, e.g., New York Environmental Justice Alliance, *Waterfront Justice Project*, http://www.nyc-eja.org/?page_id=311.

Many of the regional efforts should ensure that EPA also commit to outreach, education, and communication to better understand the needs of native and tribal communities which may face non-traditional EPA environmental justice issues. For example, Region 8 has unique issues EPA should consider in a regional environmental justice strategy alongside urban issues, such as mitigating acid mine drainage; abandoned mine cleanup; health impacts due to oil and gas development, agricultural runoff, nitrogen deposition in mountain areas; and energy-related permitting and siting issues. The region is also home to some of the most impoverished tribal communities in the country who have fundamental infrastructure needs and lack environmental enforcement assistance and resources. The Tribes also need EPA trainings to strengthen their governmental programs and EPA educational meetings to strengthen tribal community awareness. EPA should consider participating in tribal college environmental programs too. EPA received good advice on implementing its environmental justice goals in Indian Country through the National Environmental Justice Advisory Council recommendations.²⁵ As another example, for many or most federal projects in Alaska, only “foreign” languages, such as Hmong and Filipino, are included to translate and protect the interests and needs of limited English proficient (“LEP”) persons. But, as shown in recent cases in Alaska, with both Yup’ik and Gwich’in LEP for voting under the Voting Rights Act, it is important for EPA to prioritize the inclusion of native and indigenous languages.²⁶ These recommendations should be implemented when EPA interacts with Tribes in various regions.

II. TO DEEPEN ENVIRONMENTAL JUSTICE PRACTICE, CREATE NEW CROSS-CUTTING INITIATIVES AND TOOLS THAT WOULD IMPROVE THE HEALTH AND ENVIRONMENT OF OVERBURDENED AND VULNERABLE COMMUNITIES WITH PARTICULAR ENVIRONMENTAL JUSTICE CONCERNS.

In addition to creating the metrics and actions described above, EPA should create the following national initiatives and tools to advance environmental justice.

A. Enforcement Initiatives

1. EPA should expand enforcement resources and direct its resources to the most vulnerable communities with greatest need and past and current compliance problems.

As part of setting EPA’s next national enforcement initiatives, EPA should increase enforcement resources and ensure broad community input and outreach, not just seek comment on its website or through the Federal Register. EPA should use EJSCREEN and other

²⁵ NEJAC, *Proposed Advice and Recommendations on Implementation of the EPA Policy on Environmental Justice for Tribes and Indigenous Peoples*, (Sept. 2014), available at <http://www.epa.gov/environmentaljustice/resources/publications/nejac/recommendations-tribal-policy-2014.pdf>.

²⁶ See, e.g., Legal Language Services, *Election Translation 2014* (Oct. 6, 2014), <https://www.legallanguage.com/legal-articles/election-translation-2014-yupik-and-gwichin>.

environmental justice metrics, as described in these and other comments EPA has received, to ensure targeting of initiatives and enforcement resources to achieve environmental justice objectives.

2. **Require EPA enforcement staff to ensure that the outcomes of cases, including any supplemental environmental projects, provide the best available benefits and pollution and health protections for affected local communities.**

To strengthen the demonstrated outcomes of enforcement cases for communities, EPA should take at least the following three key steps:

- **Community Input During Enforcement.** EPA has previously made commitments to include community input in enforcement, but in many instances that input has not been sought or has not been utilized in a way that allows community members to affect the result of a consent decree or a supplemental environmental project (“SEP”) chosen by EPA/DOJ. As part of Plan EJ2020, EPA should do an audit of prior cases; report on where there was community input and which groups were contacted; report on the results; and provide a report on best practices and specific actions that should be used across the board. Where possible, EPA should modify prior enforcement results to better protect communities. For new cases: EPA should require enforcement staff to identify community groups and contact them as early as possible during an action to seek input on the case objectives and results, including any supplemental environmental projects under consideration. EPA should ensure that there is a sufficient public comment period for consent decrees and settlements to allow for meaningful community input, and that this is publicized through direct communication and in other ways in the affected community, not just in the Federal Register and on-line.
- **Achieve Community Protections As Part of Case Results and Implementation.** EPA should require each proposed consent decree or settlement to include a clear method and role for community input as well as a community-focused benefit and protection objective. EPA should assess the results of enforcement cases based on community outcomes achieved, including metrics described earlier in these comments. EPA should provide information to community members on requirements, monitoring, and other components of successful enforcement cases so they can help track and receive the full benefit of these results over time as enforcement decrees, settlements, and court orders are implemented. EPA should create an ongoing Community Advisory Board or host regular meetings with the community and representatives during enforcement and throughout implementation to have continual meaningful engagement and input. EPA should require that copies of annual reports go to local community or civic groups to help keep the community informed.
- **Publish and Disseminate Lists of Best Practices to Increase Community Protections.** EPA should perform an audit, with input from pollution control

and monitoring companies, and create a list of best practices and technologies available for particular industries, pollutants, and pollution controls and monitoring methods. EPA should update this list and publish it annually so that it is available to community members evaluating permits, regulations, and bringing their own enforcement actions. Before proposing a component of a consent decree or settlement, EPA should assess whether it is the best available method already in use in another settlement, decree, or a state or local jurisdiction by the same or a similar industry or company at a different facility. EPA should set up a clear method of information-sharing to assist in this process, including through required communications within the agency and with state and local agencies.

3. EPA should track and regularly evaluate and publish detailed success metrics and results of enforcement cases in achieving objectives, environmental justice, and provide this information to the public and affected communities.

EPA often issues a press release when it achieves success in an enforcement case, listing the objectives that will be achieved. But, as the Office of the Inspector General (“OIG”) found after evaluating EPA’s refinery enforcement initiative, EPA needs to better assess the success of meeting requirements of consent decrees and settlements, and publish that information on a regular, at least annual, basis (or more often, depending on the consent decree and settlement).²⁷ EPA should also assure that this is provided to communities in an understandable way, so communities can help assess ongoing results and progress achieved.

4. EPA should create and publicize an anonymous community and worker hotline for concerns, tips, and complaints about potential violations of environmental laws and regulations.

Currently, EPA has a website that is not known to most community members and not useable without computer access.²⁸ This website directs people who wish to phone in a complaint to another site that says it is necessary to find the correct EPA Region. The website also states that it may be better to call a state or local agency, rather than EPA. This system is not workable or useful for many, if not most, community members with environmental and health concerns in vulnerable communities.

There should be a clear and easy to use, well-publicized method to phone in anonymous complaints. EPA should provide a public log of complaints received; the office or department, including contact information, to which the complaint was directed; and ultimate follow-up

²⁷ EPA, OIG Report, *EPA Needs to Demonstrate Whether It Has Achieved the Goals It Set Under the National Petroleum Refinery Initiative*, Report No. 14-P-0184, (Apr. 15, 2014), available at <http://www.epa.gov/oig/reports/2014/20140415-14-P-0184.pdf>.

²⁸ See EPA, *Report Environmental Violations*, <http://www2.epa.gov/enforcement/report-environmental-violations> (last updated June 1, 2015).

action (if any) or other outcome. EPA, on the regional websites, could also easily post contact information for regional state emergency or hotline numbers.

It is important that EPA publicize a complaint mechanism to ensure it particularly reaches workers and community members in overburdened communities with environmental justice concerns. EPA should use EJSCREEN and other metrics to ensure that community members whose primary language is not English have the necessary information and access to submit complaints, and receive follow-up information.

Anonymous reporting is especially important for workers who may have inside information about a problem that needs to be fixed, maintenance that could avoid a disaster, or other issue that is important to correct to prevent both additional pollution and immediate injury or loss of life.

In addition, EPA should update its tips and complaints website to keep up with the times, and allow for easy submission of photos, video, GPS data, air monitoring data collected remotely, *etc.*, to accompany a complaint. The public needs to be able to submit information that will be meaningful and useable for enforcement if they have this type of information. In addition, as discussed later, EPA needs to strengthen the availability of public information that community members can consult to assess compliance.

For example, EPA should review the best practices in use in some states or local areas, such as the Fresno Environmental Reporting Network (“FERN”) in Fresno County, CA,²⁹ and the Kern Environmental Enforcement Network (“KEEN”), in Kern County, CA.³⁰ FERN provides information on how to submit complaints through multiple methods, and allows multilingual reporting. It even allows people to receive email alerts of problems reported in the area, so that other community members can receive the immediate benefit of knowing if there is an immediate potential health or safety concern they should be aware of. As stated on its website: “FERN is modeled after a successful project, the Imperial Visions Action Network. In the first two years IVAN generated violations leading to \$90,000 in penalties.”³¹ IVAN has since been expanded to other communities as well, as an “Environmental Monitoring System that connects the community with real people that can help solve local environmental problems.”³²

5. For each EPA Region, hold an annual enforcement symposium with communities and state and local enforcement agencies.

For each region, EPA should hold an annual meeting that brings together affected communities, EPA, state, and local environmental enforcement agencies to increase EPA’s enforcement impact and share information. There should be a community complaint and comment mechanism as part of this meeting. This meeting should also include a transparent discussion of identified compliance problems in the region; strategies to address those; and ways

²⁹ FERN, *Welcome*, <http://www.fresnoreport.org/>.

³⁰ KEEN, *Home*, <http://www.kernreport.org/>.

³¹ *See supra* n.29.

³² Identifying Violations Affecting Neighborhoods, *Home*, <http://www.ivanonline.org/>.

in which communities can have input, gain additional information, or in some instances assist in addressing such problems. This meeting should also include technical assistance and other information for community members. Some states – such as California – and regions previously have held these kinds of events, and EPA should contact staff there to seek information on best practices in how to organize and implement this kind of event.

6. Create a formal project for EPA-DOJ community-directed enforcement technical assistance, trainings, and amicus briefs.

EPA should create a work-group of EPA and DOJ enforcement staff who are available to provide technical assistance and enforcement trainings for community members who seek to evaluate potential problems arising from pollution or other toxic exposures, and decide whether to bring cases themselves that EPA/DOJ does not have the resources to bring directly. This group should be part of trainings and publicized widely to affected communities.

As part of this work-group, EPA and DOJ should track enforcement cases and actively consider submitting an amicus brief in federal courts, especially courts of appeals, where such a brief could make a difference to: strengthen applicable precedent on enforcement; ensure an incentive for facilities to comply rather than violate environmental laws; and assist in achieving a positive result for communities where EPA-DOJ did not have sufficient resources to bring a full enforcement case. EPA should actively seek out cases for potential amicus briefs.

7. Create community trainings and information on pollution, compliance, permitting, and enforcement.

EPA has made it a priority to create “Next Generation” monitoring and compliance tools in individual enforcement cases, even while it is going backward in rules and monitoring networks – which are important issues for Plan EJ2020 to address, as discussed later.³³ It is important that EPA provide training and information to communities so that they can understand how to interpret and use this information, and receive the full benefits that this project is intended to provide. EPA should hold regular community trainings and provide information on pollution, toxic exposures due to drift, monitoring data, compliance and enforcement to assist community members in understanding all of the ways in which they can help assure compliance and strengthen environmental enforcement. EPA provides some of these kinds of resources online, but they are difficult for community members to find, and not all are publicly available. EPA should create a single place where community members can find and access available information, publicize this widely for community members, and also hold additional trainings in

³³ Mem. from Cynthia Giles, Asst. Administrator, EPA (Jan. 7, 2015), *available at* <http://www2.epa.gov/sites/production/files/2015-01/documents/memo-nextgen-useinenfsettlements.pdf> (“Giles Memo”); EPA, *Next Generation Compliance*, <http://www2.epa.gov/compliance/next-generation-compliance> (last updated June 15, 2015); *see also* EPA Ofc. of Enforcement & Compliance Assurance, *Next Generation Compliance: Delivering the Benefits of Environmental Laws*, EPA (Oct. 9, 2014), <http://www2.epa.gov/compliance/next-generation-compliance-delivering-benefits-environmental-laws>; EPA Office of Enforcement & Compliance Assurance, *Next Generation Compliance: Strategic Plan 2014-17* (Oct. 2014), *available at* <http://www2.epa.gov/sites/production/files/201409/documents/next-gen-compliance-strategic-plan-2014-2017.pdf>.

the regions for more in-depth dissemination of information that communities need to engage actively in permitting and enforcement matters.

As a good example, EPA Region 4 has scheduled their 14th Community Involvement Training Conference on August 4-6, 2015 in Atlanta, Georgia. Events such as this are very important. EPA also must provide a mechanism by which poor and underserved communities can participate in this and other similar events. EPA has arranged for participation via telephone for those who cannot attend in person, but the phone is no substitute for the value of training or other informal and personal connections and discussions that can occur in person.

8. Provide input opportunities, information, and protections for communities living near contaminated and Superfund sites.

There is a strong need to reform and address environmental justice issues in all aspects of the Superfund program, including in terms of site prioritization, clean-up, and oversight. Experience at the General Motors Superfund Site in Massena, New York, a massive PCB dump directly adjacent to the St. Regis Mohawk Tribe, illustrates this. EPA has long recognized the need to take the cultural and historical concerns of Tribes into account when conducting Superfund remediations, and EPA recognized that because “the people of the St. Regis Mohawk Tribe ... have a cultural and spiritual link to the St. Lawrence Environment[,]” which they call Akwesasne, “[s]pecial consideration must be given to Native American concerns in evaluating and remediating the site.”³⁴ Yet EPA has persistently failed to incorporate the suggestions of the Tribe in its oversight of remedial actions, and the site is not expected to be cleaned up until 2017 – over thirty years after the site was first listed on the National Priorities List, even though there is significant PCB contamination.³⁵

As further examples of Superfund issues some supposedly “closed” Superfund sites are not closed at all – no fence, no posting, tanks labeled “permanently closed” but that are broken open, *etc.*, with nothing to warn or prevent children or adults from going onto the site. In addition to a hotline to report issues like this, as noted above, EPA should track and ensure protections to keep these sites closed and inform communities of the dangers of entering them. This information needs to be provided in languages used by all local community members.

In addition, a common concern expressed by community groups is the lack of meaningful, active EPA community engagement. Communities often feel that they are not considered to be important stakeholders in planned remediation activities in their communities. One example involves the Jacksonville Showcase community, where EPA has developed a strong relationship with the residential community group near a hazardous waste site. However, there is a former worker population that has not been included in EPA’s activities and, as such, this community has not received protections that should come from interaction with state, local,

³⁴ EPA Superfund, Record of Decision: General Motors (Central Foundry Division), EPA/ROD/R02-92/170 at 29 (Mar. 1992), *available at* <http://www.epa.gov/superfund/sites/rods/fulltext/r0292170.pdf>

³⁵ EPA, *G.M. Massena: St. Lawrence County, NY*, <http://www.epa.gov/r02earth/superfund/npl/gmmassena/index.html> (last updated July 9, 2015).

or federal environmental and health agencies. EPA must work actively to ensure the involvement of multiple community voices and groups in clean-up processes.

B. Regulatory Tools and Actions

1. Update EPA's approach to assess cumulative risks and impacts based on current science and the need to protect vulnerable communities.

EPA must carry forward and follow through on its commitment from Plan EJ 2014 to address cumulative impacts, including cumulative risks.³⁶ EPA's approach to assessing environmental health threats and impacts is woefully outdated and behind the science. This problem comes to a head in clean air, toxics, pesticides, civil rights enforcement, and other actions where EPA is required to assess health risks and impacts. But failing to follow the current science also harms the agency's effort to account for and address vulnerabilities and environmental justice concerns across a broader range of its actions as well. EPA must take action to update its guidance. EJSCREEN is a screening tool that addresses only a few factors and is no substitute for the policies and protocols that EPA must use in actually deciding what action to take at the program level.

The dire reality is that environmental hazards affect some communities much more than others. Pollution and polluting sources are often concentrated together, overburdening and overwhelming communities and populations, and causing greater health effects and safety threats.³⁷ Further, farmworker communities are often exposed to multiple pesticides in their workplaces, in their drinking water, and in their homes and communities as a result of drift and pesticides borne on clothes, shoes, and skin. Current risk assessment practices, which have failed to keep up with current science and do not account for real-world impacts, jeopardize the health of communities surrounded by sources of pollution – such as coal plants, refineries, cement kilns, chemical plants, metal smelters, incinerators, dry cleaners, highways, truck routes, landfills, Superfund, and other hazardous waste sites.

In order to fulfill the agency's renewed commitment to environmental justice and the recommendations from the National Academy of Sciences, National Research Council, EPA must update its approach to account for the cumulative impacts and risks faced from early-in-life exposure (including childhood) and from exposure to multiple sources, as well as the increased vulnerability from socioeconomic stressors and multiple pollutant and pathway exposures. To this end, we urge EPA to commit to do the following as part of Plan EJ2020:

³⁶ EPA, *Plan EJ 2014*, <http://www.epa.gov/compliance/ej/plan-ej/>.

³⁷ OEHHA, *Cumulative Impacts: Building a Scientific Foundation* at 5-16 (Dec. 2010), available at <http://oehha.ca.gov/ej/pdf/CIREport123110.pdf> (citing numerous research studies showing that exposure to pollution-emitting facilities, hazardous waste facilities and disposal, toxic releases, non-attainment air areas, high motor vehicle air pollution areas, and other types of pollution is more likely to be concentrated in communities with higher minority and lower income populations); R. Morello-Frosch, *et al.*, *Understanding The Cumulative Impacts of Inequalities in Environmental Health: Implications for Policy*, 30(5) *Health Affairs* 879, (2011); R. Morello-Frosch, *et al.*, *Separate and Unequal: Residential Segregation and Estimated Cancer Risks Associated with Ambient Air Toxics in U.S. Metropolitan Areas*, *Envtl. Health Perspectives*, 114(3) *Envtl. Health Perspectives* 386 (2006)..

a) EPA must incorporate the real-world experience and perspective of people who live in communities that are overburdened by pollution and other environmental hazards.

Too many communities of color and lower income communities are exposed to a disproportionate share of air pollution and all of the resulting health risks and impacts. Communities have previously submitted statements that summarize the situation and provide narratives from various example communities around the United States that describe the on-the-ground impact of EPA's scientific policy decisions and the urgency of reforms in risk assessment practices.³⁸

b) EPA must advance environmental justice and protect public health by establishing guidance that provides a means to reduce cumulative impacts in overburdened communities.

There is clear and mounting evidence that the concentration of environmental hazards in lower income communities and communities of color threatens public health and that current risk assessment practices contribute to environmental inequities and increase disparities. Experts have identified addressing cumulative impacts as a critical step to ensuring environmental justice and reducing disparities. At minimum, this must include:

- (1) Immediately updating existing guidelines for conducting risk-based assessments to incorporate mechanisms for accounting for the cumulative impacts of multiple exposures and underlying vulnerabilities; and
- (2) Moving beyond current risk frameworks and incorporating alternate methods to assess health threats from environmental exposures in a way that will better capture the impacts faced by overburdened communities and support policies to reduce them.

Regarding item (1) above, most urgently, where its authorities direct it to assess risk, EPA must use the best available current science to do so. EPA can and must vastly improve its approach by updating existing risk assessment guidelines to incorporate the science on cumulative risk and impacts, including by implementing the following:

- Account for individual-level vulnerability in risk assessments by better incorporating the vulnerability of children, early-life exposures, and the developing fetus into risk assessment methods:
 - ☐ Account for increased susceptibility by using age-dependent adjustment factors for all carcinogens, not just known mutagens.
 - ☐ Pre-natal susceptibility: Account for increased susceptibility by using a pre-natal adjustment factor for all carcinogens of *at least 10X*.

³⁸ See *supra* n.8.

- ☐ For chronic non-cancer risk, consult and apply child-specific reference values (such as those created by California EPA scientists), where available.
 - ☐ If child-specific reference values are unavailable, consult science on early exposure impacts, and use an additional default factor of *at least 10X*.
- Account for community level vulnerability by including factors to account for increased vulnerability based on demographic differences, as part of the risk assessment. EPA also must fully integrate the findings of its environmental justice analyses into its risk assessments and rulemakings, and set stronger pollution limits to provide environmental justice.
- Assess the cumulative burden of exposures to multiple pollutants and sources via multiple pathways:
 - ☐ Assess and aggregate exposure from multiple pathways – including by adding inhalation and non-inhalation-based cancer risks.
 - ☐ Include the interaction of multiple pollutants.
 - ☐ Account for exposure to multiple sources. Until EPA has a specific mechanism for estimating total exposures, a default or uncertainty factor of *at least 10X* should be used to provide overburdened communities with the protection they need now.
- Account for cumulative impacts of multiple exposures and vulnerabilities by shifting the level of risk which triggers policy action.
 - ☐ Reduce EPA’s benchmark of what it considers acceptable lifetime cancer risk, instead of relying on the outdated upper limit of 100-in-a-million. This benchmark is way too high, and is completely unacceptable to affected communities who are bombarded by high levels of pollution from many different sources, emitting many pollutants that can cause both additive and synergistic harm, and experience exposure through multiple pathways.
 - ☐ Use a Margin of Exposure (“MOE”) framework for non-cancer impacts and adjust the target MOE according to known vulnerability factors.
- In the face of increasing evidence calling into question the assumption of a safe or acceptable level of exposure, EPA should also consider reforming risk assessments to support reducing risks to the lowest possible level to protect public health, rather than suggest that there is a safe or acceptable level.

Prior comments submitted to EPA providing more detail on these issues are available in the dockets of the Office of Science Advisor and air office, among others.³⁹

Commenters also wish to highlight that EPA should be requiring and using a full Health Impact Assessment (“HIA”) wherever possible, in addition to looking at health risks where directed by law. An HIA is a more detailed and comprehensive tool to understand the impacts of pollution on a community that already includes significant health burdens and legacy pollution. The Port of Los Angeles HIA provides an example of the type of impact assessment that should be used more often.⁴⁰

In addition, continued development of EJSCREEN and similar tools is also recommended to support communities in learning more about the environmental justice threats that surround them, so that communities know which pollutants to track and which monitoring tools will be most useful. EJSCREEN is a screening tool, and is no substitute for the long-overdue updates to EPA’s policy and protocol to assess cumulative risks and impacts, but these tools can work together to strengthen information available to communities, EPA, and state and local agencies, as well as other stakeholders.

2. EPA should perform a review of permits and strengthen the requirements applicable to all permits, including Title V permits, through state oversight and direction by providing best practices.

As some commenters, such as the Coalition For A Safe Environment, have previously proposed, EPA should create a permit taskforce – including one specific to Clean Air Act Title V, as well as for CWA permits – that updates EPA’s prior assessments with meaningful action steps. Each permit-focused taskforce should be charged with an independent review and evaluation of the quality of permits, including specific areas that need strengthening including: monitoring, reporting, public information, and other key components needed to assure compliance, including through public review and enforcement. EPA should provide a report and use this in oversight of states, and provide it for public commenters, along with a clear direction to lift all permits up to a higher level of essential enforcement requirements. The objective of this project would be to strengthen environmental justice protections for communities with a significant number of permitted facilities.

³⁹ See, e.g., Comments of Air Alliance Houston, Earthjustice, *et al.* (June 28, 2013), EPA-HQ-ORD-2013-0292-0133; see also EPA, *Cumulative Risk Webinar Series: What We Learned*, EPA/600/R-14/212 (July 2014), available at <http://epa.gov/ncer/cra/webinars/cra-webinar-summary.pdf>; NEJAC, *Ensuring Risk Reduction in Communities with Multiple Stressors: Environmental Justice and Cumulative Risks/Impacts* (Dec. 2004), available at <http://www.epa.gov/environmentaljustice/resources/publications/nejac/nejac-cum-risk-rpt-122104.pdf>.

⁴⁰ EPA, *Los Angeles and Long Beach Maritime Port HIA Scope* (May 17, 2010), available at <http://www.epa.gov/Region9/nepa/PortsHIA/pdfs/DraftHIAScope4PortsOfLALB.pdf>. EPA should also ensure that this HIA is actually finalized so it can be fully used to strengthen local environmental and health protection.

3. Revise the minimum public notice requirements for Clean Air Act and other permits, for both major and minor sources, to allow for adequate public review and participation.

To give more community members a chance to learn about permits that govern facilities in their area (including Clean Air Act Title V, PSD, NSR, Clean Water Act, and other types of permits), EPA should require facilities and/or state agencies to post permit applications and the proposed draft permit online on a publicly available website at the start of the public notice period. EPA should also ensure that notification occurs in relevant languages for the affected nearby communities.

It is a serious problem that some sources apply for and receive minor source permits without adequate review, often without submitting proper data showing that they are minor rather than major. A minor source often escapes the most protective requirements under the Clean Air Act, which can lead to communities facing even higher, unfair, and unlawful levels of pollution. EPA must revise its minor source permit rules to ensure public notice of all minor source permitting decisions.

In addition, EPA should require states to maintain a mailing list to notify interested persons of draft permits and final permits via email and telephone (for people without email access), for major and minor sources.

4. Create a National Clean Air Monitoring Rule to assure strong monitoring and reporting in Clean Air Act Title V permits.

In addition to the taskforce and to complement its work, as part of Plan EJ2020, EPA should create a national clean air monitoring rule that will include specific requirements for monitoring, reporting, and public disclosure of emissions data for all air permits.

Years ago, EPA acknowledged the need to implement the Act's enhanced monitoring requirements by setting regulatory requirements, but it has not promulgated a national rule and instead has proposed to do so rule-by-rule and permit-by-permit.⁴¹ EPA has often failed to follow through on these proposals. Many rules for specific source categories and many permits continue to lack monitoring requirements sufficient to ensure compliance with emission standards and to provide contemporaneous information on emissions to people exposed to those

⁴¹ Revisions To Clarify the Scope of Certain Monitoring Requirements for Federal and State Operating Permits Programs, 69 Fed. Reg. 3202 (Jan. 22, 2004) (vacated in *Env'tl. Integrity Proj. v. EPA*, 425 F.3d 992, 998 (D.C. Cir. 2005)); *see also* Enhanced Monitoring Program; Proposed Rule, 58 Fed. Reg. 54,648, 54,661 (Oct. 22, 1993) ("EPA intends to address the enhanced monitoring requirements pursuant to section 114(a)(3) in the requirements developed for such pollutants"; "EPA intends that the general provisions of part 63, MACT standards promulgated by rulemaking in individual subparts of part 63 ... will include, pursuant to the authority in section 114(a)(3) of the Act, appropriate enhanced monitoring provisions."); *see also* Compliance Assurance Monitoring; Final Rule, 62 Fed. Reg. 54,900, 54,902 (Oct. 22, 1997) ("One method is to establish monitoring as a method for directly determining continuous compliance with applicable requirements. The Agency has adopted this approach in some rulemakings and, as discussed below, is committed to following this approach whenever appropriate in future rulemakings.").

emissions in the community. In many cases, rules and permits require only a single stack test, once a year (or even less often) that does not reflect ongoing emission levels and does not assure continuous compliance. EPA has previously even taken action to prevent states from implementing supplementary, stronger monitoring requirements, which was struck down in court.⁴² A national rule is needed to require all permits to include monitoring necessary to assure compliance.

The Clean Air Act requires EPA to set monitoring provisions to assure continuous compliance with emission standards.⁴³ The Act also requires emission standards to be continuous and apply at all times.⁴⁴ Many air sources, such as refineries, have a long history of violations, malfunctions, and other exceedances of the standards.⁴⁵ EPA is in the process of removing the unlawful SSM exemption that is included in some current standards, but in view of the record of the industry's reliance on that exemption, effective monitoring is required to assure compliance with the standards at all times. EPA needs to require truly "enhanced monitoring" in a national rule that will assure compliance with all air standards in permits, without further delay. The agency's compliance assurance monitoring rule is outdated and woefully inadequate for this purpose, and does not even purport to cover all sources covered by EPA rules and Title V permits.

EPA's own Enforcement Division is also implementing enhanced monitoring requirements to assure compliance in its refinery enforcement initiative, and EPA must require, at least, what its division is requiring as part of its "next generation compliance" policy.⁴⁶ EPA as a whole should follow this policy and implement the Act's enhanced monitoring requirements in this rulemaking.

In addition, significant advancements in monitoring have occurred in recent years. There are newly available technologies and monitoring techniques to assure compliance with air

⁴² See, e.g., *Sierra Club v. EPA*, 536 F.3d 673, 680 (D.C. Cir. 2008) (vacating EPA's prohibition on states from enhancing monitoring requirements, 71 Fed. Reg. 75,422 (Dec. 15, 2006)).

⁴³ See, e.g., 42 U.S.C. § 7414(a)(3) (directing that EPA "shall in the case of ... a major stationary source ... require enhanced monitoring and submission of compliance certifications"). In addition, Title V requires permits to contain "conditions as are necessary to assure compliance with applicable requirements of [the Act];" and to include "monitoring ... requirements to assure compliance with the permit terms and conditions." 42 U.S.C. § 7661c(a), (c). As the Senate Report accompanying the Act summarized: "EPA must require reasonable monitoring ... requirements that are adequate to assure compliance." S. Rep. No. 101-228, at 350 (1989), *reprinted in* 1990 U.S.C.C.A.N. 3385, 3733. Pursuant to its rulemaking authority and duty under Title V, 42 U.S.C. § 7661a(b)(2) and § 7661c(b), EPA has issued regulations in 40 C.F.R. Part 70 that affirm these requirements. 40 C.F.R. § 70.6(a)(3)(i)(B) requires "monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance." Section 70.6(c)(1) requires all Part 70 permits to contain "testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit."

⁴⁴ 42 U.S.C. § 7602(k); *Sierra Club v. EPA*, 551 F.3d 1019, 1028 (D.C. Cir. 2008).

⁴⁵ See, e.g., Refineries Comments at 26-27, *supra* n.13 (citing sources).

⁴⁶ See *supra* n.33.

emission standards. In particular, more time-resolved, higher data-quality-producing fence-line monitoring protocols have been implemented at specific refineries through enforcement suits brought by EPA and negotiations with community groups. As examples, Commenters highlight the EPA consent decrees at Shell Deer Park and BP Whiting, and the community monitoring protocol set up at Chevron Richmond, and attach a summary of some of these monitoring protocols.⁴⁷

To date, EPA has not followed up to create a national monitoring rule addressing the monitoring needs outlined above, or to ensure that permits include such requirements. This is the kind of national program action that would help communities overburdened with air pollution, who are disproportionately communities of color and low-income communities. It is also extremely important for EPA to strengthen and require fence-line monitoring on a case-by-case basis in industry-specific rules and facility-specific enforcement actions. In addition, though, EPA must set national requirements to ensure stronger monitoring reaches more communities faster and in a more efficient way than a rule-by-rule approach allows.

5. Strengthen Monitoring and Reporting Requirements in Rules.

EPA needs to ensure that its rules provide for the best available monitoring, reporting, and public transparency requirements for the purposes of assessing and enforcing compliance. Its rules need to facilitate both government and affected community enforcement, such as through citizen actions, where necessary. Enforcement staff involved in review of permitting programs should be directed to ensure that states are issuing enforceable permits.

To achieve this objective, EPA should perform a systematic review of monitoring and reporting requirements in national standards and issue a publicly available report on the results. With input from the enforcement division and the public, EPA should assess the best available monitoring requirements, such as: continuous emissions monitoring (“CEMS”) and digital camera and video monitoring; or continuous parametric monitoring and frequent stack testing for any pollutants/points where CEMS is not yet available; the best available reporting and transparency requirements: *e.g.*, where electronic reports of data collected go directly to state agencies and EPA, and are made publicly available in or near real time on-line, in a format that the public can review and understand. As part of this review, EPA should also consult the states to see the best practices in use for monitoring, testing, and reporting, as well as air pollution and monitoring control companies and trade associations, such as the Institute of Clean Air Companies (“ICAC”).

To achieve environmental justice objectives, EPA must recognize that community members have a basic right to know what is going into their environment so that they can use this information to better protect their own health and advocate for stronger protection, and so that they can know whether or not a source is in compliance or needs action to bring it into compliance.

⁴⁷ Earthjustice, EIP *et al.* Letter to NEJAC summarizing fenceline monitoring in place (Apr. 2015); *see also* Refineries Comments, *supra* n.13.

To date, EPA has been moving in the opposite direction. For example, as detailed in comments filed in November 2014, EPA has proposed to weaken or forego public participation requirements for various monitoring programs that are particularly critical to people living in disadvantaged communities.⁴⁸ In addition, many rules include, at most, an initial, one-time stack emission test, or very delayed (*i.e.*, 5-year periodic one-time tests). Many rules include only on-site recordkeeping for agency inspection, without the ability for public review or transparency. And in some instances, EPA has eliminated the use of special purpose monitors to assess compliance with the National Ambient Air Quality Standards. EPA has also created biased defaults that assume “no pollution” whenever there is a concern about the quality of data, rather than using that data to trigger the need for areas/sources to prove that data was incorrect. This bias means that areas with poor resources are more likely to be assumed “clean” and there is actually an incentive not to invest in quality assurance/control. These are all serious problems that particularly affect communities with large numbers of sources, including many communities of color and low-income communities. Similar issues plague farmworker and other low-income worker communities, who have little reliable information about the number of acute pesticide and other types of chemical poisonings in the workplace; workers fear retaliation if they voluntarily report and there is no national pesticide incident reporting system or effective chemical safety risk reporting system that could be utilized by clinicians and others who work with farmworkers, chemical plant, refinery, or other workers.

6. Strengthen Air Monitoring Networks, Requirements, and Data.

EPA should invest in additional ambient air monitors. EPA should prioritize siting those monitors in communities identified as hot spots for environmental justice.

To create strong monitoring networks across the country, EPA should incorporate environmental justice principles when reviewing and approving air monitoring network plans. Consistent with the Clean Air Act’s requirements that states assure air quality for all people, EPA’s review of these plans should assess whether a given air monitoring network is producing data that represents what people are breathing in overburdened communities.⁴⁹

In addition to the ambient air monitoring network, EPA should identify low-income communities and communities of color and target continuous, real-time fenceline monitoring at facilities in those communities, in line with Executive Order 12,898.⁵⁰ Other “advanced monitoring” practices should be required in environmental justice communities as well, including lower-cost monitors that can be installed in many locations, monitors that produce data in real time, and monitors that present data in ways that a layperson can understand.⁵¹ Infrequent

⁴⁸ Comments of Earthjustice & Am. Lung Ass’n at 1-4 (Nov. 10, 2014), EPA-HQ-OAR-2013-0619-0034.

⁴⁹ See generally 42 U.S.C. § 7407(a).

⁵⁰ See Exec. Order No. 12,898 § 1-101, 59 Fed. Reg. at 7,629 (“... each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations ...”).

⁵¹ Giles Memo at 1-2, *supra* n.33.

periodic stack tests are completely insufficient to assess and assure compliance. Further, all monitoring data must be reported to the public in or near real time, in a useable and understandable form, and not just collected for agencies to look at, if they so choose. EPA should also include indoor air quality monitoring under the umbrella of advanced monitoring, so that community members have a fuller understanding of the air quality they experience within their communities.

7. Create a policy to use citizen-collected science and monitoring data within EPA programs, to the greatest extent possible.

Community air monitoring must play an important role in creating strong air quality monitoring networks for low-income communities and communities of color. EPA should prioritize the acceptance of monitoring data that communities produce for themselves, and act as a partner and a resource for communities working to address air quality threats.

To this end, EPA has begun creating projects and grants to provide training and technology to encourage and assist community members to help assess air quality and other environmental problems. Yet, frequently when community members have brought data showing an air pollution problem or air standard exceedance to EPA, EPA has ignored and refused to use these data. As one recent example, community members in Galena Park in Houston, TX provided community monitoring data showing PM_{2.5} exceedances.⁵² Yet, EPA neither recognized these data as showing a violation that required the area to be found to be in nonattainment for PM_{2.5}, nor performed any independent monitoring or verification to assess whether, with some additional work or data collection on EPA's part, the data could be used to address the clear problem they showed.⁵³ Thus, even though there is clearly a particulate matter problem in the air in this Houston neighborhood, and even though the community spent time and resources to gather air monitoring data to supplement the data EPA already had, the community was not designated as nonattainment and will not receive the health protections that would come from such a designation.

Rather than allow examples like this to continue to occur, EPA must set clear guidelines and a clear policy to recognize citizen science and monitoring, especially when citizen-provided data show environmental problems, toxic exposures, or violations, with input from regions and community groups. EPA should work with the states and local agencies to encourage them to do the same, following best practices. These guidelines should be predicated on an acceptance of the principles of community-based monitoring. As part of these:

- First, EPA should provide clear instruction to community members who will be collecting data on what quality assurance and quality control protocols or

⁵² Comments of Sierra Club, *et al.* at 4 (Sept. 29, 2014), EPA-HQ-OAR-2012-0918-0295 (submitting data showing that “particulate matter levels are often well above the NAAQS standard in this area,” including at a monitor near the Early Head Start building (a childhood development center serving children between 0-3 years of age), reporting recorded particulate matter daily average levels ranging from 7.8 to 44.7 micrograms per cubic meter, with an average value of 20.7).

⁵³ Response to Comments at 56-57 (Dec. 17, 2014), EPA-HQ-OAR-2012-0918-0337.

steps must be taken for the data to be considered as equally reliable as federally monitored data.

- Second, if citizens provide data that EPA believes do not meet these criteria for any reason, then EPA should presume such data are at least relevant, rather than just ignoring the data as though they were never collected and show nothing. In particular, EPA should direct its staff to ensure that when citizens submit data suggesting there is an environmental problem, then rather than reject or ignore these data, staff must take additional action to attempt to verify those data, show the verification process used, use independent monitoring to see if the data can be replicated using EPA methods, and/or to require a facility to show that the data do not demonstrate a violation or illustrate another environmental problem.

8. Integrate enforcement staff and enforcement expertise into the rulemaking process.

As part of each significant rulemaking in its air, water, waste, pesticides, and other programs, EPA should make it a requirement for rulewriters to request and receive an independent review and report on recommendations from its enforcement division to assess and strengthen monitoring, reporting, and other enforcement-related requirements in the rule. This report should be made available in the rulemaking docket as part of the public comment process. This review and report should both focus on what is needed to strengthen government enforcement and ensure that the rule is also enforceable by affected community members.

In addition, OECA staff should take a bigger role, and rulewriters themselves should be required to consider and address how to assure enforceability and compliance, as discussed above, by looking at: (1) the data that will be collected to assess compliance, if it includes enough detail and will be sufficiently understandable to assess compliance; (2) how it will be made available to the public as well as government agencies; (3) how timely will the data be available, so that corrective action can be taken and there are no concerns that the lag will prevent effective enforcement; and (4) if the rule will assure that a third party reviewing information can actually assess and determine compliance or a violation?

9. Assess and provide EJ outcomes in rulemakings and permitting, not just process.

In some recent public statements, EPA has referred to particular rules as examples of how EPA is implementing environmental justice objectives in rulemaking and other actions. For example, EPA pointed to the pending Refineries air toxics rule under Clean Air Act § 7412.⁵⁴ Commenters do not believe that holding public workshops or hearings, alone, illustrates success for environmental justice objectives. There must be both truly meaningful public participation and input throughout the process, and a commitment to achieving strong substantive outcomes to

⁵⁴ EPA, *Guidance on Considering Env'tl. Justice During the Development of Regulatory Actions* at E-2 (May 2015), available at <http://www.epa.gov/environmentaljustice/resources/policy/considering-ej-in-rulemaking-guide-final.pdf>.

benefit affected communities.⁵⁵ Most importantly, EPA must consider and evaluate the results of the final rule, according to metrics of actual environmental health protections achieved, pollution reduced, monitoring and enforceability mechanisms strengthened, and must do so by comparison with the best available metrics, as discussed above, to determine whether or not it has actually achieved environmental justice objectives in a rulemaking. For the refineries rule, those are the metrics community members will be using, to assess whether indeed EPA has fulfilled its objective to provide environmental justice, not the number of public hearings or workshops held.

Regarding regulations and permitting, EPA should direct each regulatory and permitting program office or division to provide an audit and a report on the top ways in which the program office or division could strengthen the substantive outcomes for vulnerable communities in the work that it does, and publish those reports. Commenters highlight especially the concerns about how a history of problems with zoning or lack thereof have caused particularly disproportionate siting and pollution burdens for communities of color and low-income communities; the permitting process must reduce these disparities, not make them worse or ignore them.⁵⁶

10. OEJ should be given authority to set performance measures and evaluate EJ progress annually, as well as give advice and feedback to program staff.

On the metrics and objectives EPA chooses to establish for Plan EJ 2020, EPA should create a clear ongoing role for the Office of Environmental Justice to provide the particular expertise they have on EPA's program work and give input on ways that EPA's actions must be strengthened substantively to assure environmental justice. This role must include not only helping to connect community stakeholders into EPA's work in terms of the process, but also evaluating and providing feedback to program staff on substance and concrete results in achieving environmental justice objectives. In addition, OEJ, in consultation with the National Environmental Justice Advisory Council, should have authority for reviewing, auditing, and providing a public progress report that is independent from EPA program staff's self-evaluations, and is included in EPA's regular reports. OEJ should directly seek affected community members' input on results achieved as part of evaluating progress on EPA's environmental justice responsibilities and objectives from community groups. Such audits and reports are no substitute for action, but action is unlikely to happen unless EPA commits to and also has an independent evaluation of whether it is indeed following through, and has accomplished real results for communities, that the communities themselves realize as progress on environmental health and environmental justice.

⁵⁵ See, e.g., Owley, *supra* n.23.

⁵⁶ NEJAC, *Recommendations Regarding EPA Activities to Promote Environmental Justice in the Permit Application Process* (May 2013), available at <http://www.epa.gov/environmentaljustice/resources/publications/nejac/2013-ej-in-permitting.pdf>.

In addition, Commenters also urge EPA to implement NEJAC's recommendations on permitting and a long list of other issues – including recommendations submitted as part of Plan EJ2014 that have not been implemented.⁵⁷

11. Identify additional mobile source regulatory measures to protect disproportionately impacted communities.

Evidence suggests low-income and minority populations disproportionately reside near heavily trafficked roadways, and thus face greater exposure to traffic-related air pollution.⁵⁸ These concerns can be even more pronounced in communities adjacent to freight hubs (e.g., railyards, distribution centers, ports). While some pollution issues can be addressed through better zoning, it is imperative to do more to protect communities currently facing the health threats from transportation-related pollution. Thus, we recommend that EPA explore additional regulations and guidance to ensure transportation-related pollution is cleaned up in communities, including measures to clean up freight equipment.

III. INTERAGENCY WORK

States: EPA must strengthen oversight of state and local agencies administering federal environmental laws and using delegated authority to issue permits, lead enforcement, and take other actions. Many permitting and enforcement decisions are made at the state and local levels. Without stronger EPA oversight, communities have not been afforded the full protection that national standards and federal regulations are supposed to provide. As part of Plan EJ2020, EPA should prioritize state and local oversight to lift up the best practices in some states and local areas in permitting, rulemaking, and enforcement, and to end the worst practices in areas where communities feel completely alone in handling serious environmental and health concerns. EPA must use its full authority, including disapproving state programs or withdrawing delegation, whenever necessary to ensure that communities do not lose the basic protections federal environmental laws are supposed to provide. In addition, EPA should help make up the gap where state and local government agencies and laws, such as a lack of appropriate zoning or a history of discriminatory zoning, create particular concerns for communities of color and low-income communities.

Under the Clean Water Act, for years communities in Appalachia have faced state refusals to implement basic requirements to assure water quality, including the mandate to translate narrative water quality standards into permit effluent limitations. EPA has documented many of these problems and the fact that the impacts of these inadequate and unlawful permits fall disproportionately on low-income communities in multiple documents, including reports and

⁵⁷ See NEJAC, *Advice and Recommendations*, <http://www.epa.gov/environmentaljustice/nejac/recommendations.html> (last updated May 19, 2015); see also NEJAC, NEJAC Comments to EPA Plan EJ 2014 (Apr. 2011), available at <http://www.epa.gov/environmentaljustice/resources/publications/nejac/plan-ej-2014-comments-0511.pdf>.

⁵⁸ See D. Brugge, *et al.*, Developing Community-Level Policy and Practice to Reduce Traffic-Related Air Pollution Exposure, 8 *Env'tl. Justice* 95, 96-97 (June 15, 2015), available at <http://online.liebertpub.com/doi/full/10.1089/env.2015.0007>.

guidance.⁵⁹ Yet, EPA still has not exercised the full oversight and authority needed to end this problem – while communities which are disproportionately low-income continue to suffer from the years of devastation to waters, wildlife, and public health associated with mountaintop removal mining.⁶⁰

Longstanding problems with Texas’s air permitting programs provide well-known examples that EPA must address there and in other states, and on which EPA has received comments in recent years.⁶¹

As another example, many parts of the country are currently facing potential increases in use of oil and gas transportation and infrastructure developments located in close proximity to communities with significant environmental justice concerns. For example, in Albany, New York, Global Companies offloads crude oil from rail cars into storage tanks and then transfers the oil to ships and barges on the Hudson River. Recent permitting actions by the New York State Department of Environmental Conservation (“DEC”) have significantly increased rail and barge traffic and increased air emissions at the terminal, placing residents of the Ezra Prentice Homes at risk, yet DEC initially failed to conduct an appropriate environmental review of the project and failed to follow the required procedures for projects that could impact environmental justice communities. This is also a serious problem in other parts of the country, and we also highlight as an example the report from California on “blast zone” crude transport issues impacting communities of color.⁶²

⁵⁹ See, e.g., EPA, *Review of Clean Water Act § 402 Permitting for Surface Coal Mines by Appalachian States: Findings & Recommendations* (July 13, 2010), available at http://water.epa.gov/polwaste/npdes/upload/Final_Appalachian_Mining_PQR_07-13-10.pdf; EPA, *Improving EPA Review of Appalachian Surface Coal Mining Operations Under the Clean Water Act, National Environmental Policy Act, and the Environmental Justice Executive Order* at 4 (July 21, 2011) (“The environmental legacy of mining operations in the Appalachian region is far-reaching.”) (discussing deforestation and adverse impacts on aquatic ecosystems) (“July 2011 Guidance”); EPA Office of Research & Development Final Report: *The Effects of Mountaintop Mines and Valley Fills on Aquatic Ecosystems of the Central Appalachian Coalfields* (May 27, 2011), available at http://ofmpub.epa.gov/eims/eimscomm.getfile?p_download_id=501593; EPA, *Final Determination of the U.S. Environmental Protection Agency Pursuant to § 404(c) of the Clean Water Act Concerning the Spruce No. 1 Mine, Logan County, West Virginia* at 94-97 (Jan. 13, 2011) (“Spruce Determination”), <http://water.epa.gov/lawsregs/guidance/cwa/dredgd/spruce.cfm>.

⁶⁰ See, e.g., Environmental Justice Petition for EPA Action Under Executive Order 12898 And All Other Legal Authorities, filed by Coal River Mountain Watch *et al.* (2009); Petition of 19 Local, Regional and National Organizations to EPA for Rulemaking to Set Water Quality Standards to Protect Appalachian Waters from Mining Waste and Harmful Levels of Conductivity (May 6, 2013), available at <http://earthjustice.org/documents/legaldocument/pdf/community-petition-to-epa-for-rulemaking-on-mountaintop-removal-pollution-water-quality-standard-6>.

⁶¹ See, e.g., Comments of Air Alliance Houston, *et al.* (submitted on Plan EJ2020).

⁶² Communities for a Better Environment, *Crude Injustice on the Rails: Race and the Disparate Risk from Oil Trains in California* (June 2015), available at <http://www.forestethics.org/sites/forestethics.huang.radicaldesigns.org/files/Gdc-Injustice-on-the-Rails.pdf>.

Another example is North Carolina's failure to address the impacts of industrial animal product in eastern North Carolina, where the density of hog and, more recently, poultry operations in low-income African American, Latino, and Native American communities has affected quality of life, waterways, and a range of health indicators. For years, community members in eastern North Carolina complained to EPA and the state Department of Environment and Natural Resources about the adverse effects of the industry on their health and environment and implored the agencies to provide greater protection to no avail. In 2014 community groups filed a civil rights complaint with EPA pursuant to Title VI of the Civil Rights Act of 1964, which might have been avoided had the state and EPA taken action to resolve the problem.

Federal: Under the Federal Interagency Working group, EPA should continue to work with other agencies and White House Offices to advance environmental justice, including through achieving results for the identified hot spot communities and areas with environmental justice concerns, as discussed earlier. Federal agencies, especially HHS, including the CDC, NIEHS, should work to assure better data is collected and available on health status and health concerns at the census tract level. These data are important for communities and EPA staff to have to direct and assess the success of resources applied to promote environmental justice. In addition, commenters are aware that some agencies (*e.g.*, U.S. Army Corps of Engineers) appear to have no environmental justice office or clear objectives of any kind. EPA should assist all agencies in implementing the Executive Order. For example, EPA should provide guidance to HUD and other agencies to consider when spending public funds, such as on low-income housing, which should be built in healthy and environmentally accessible areas – and not next to refineries, power plants, or other industrial sources of air and water pollution. As another example, EPA should ensure other federal agencies are vigilant in monitoring transportation projects, including freight expansion projects, which can exact a large toll on communities.

IV. EPA SHOULD BUILD TITLE VI COMPLIANCE AND ENFORCEMENT INTO ALL ASPECTS OF AGENCY OPERATIONS AND INCLUDE TITLE VI ACTION ITEMS IN PLAN EJ2020.

EPA has separated Title VI enforcement from its Plan EJ2020 process. Commenters urge EPA to set Title VI commitments as part of Plan EJ2020 for the following reasons.

Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d – 2000d-7, prohibits recipients of federal financial assistance from discriminating on the basis of race, color or national origin in any of their programs or activities. EPA, like other federal agencies, enacted regulations pursuant to Title VI. 40 C.F.R. Part 7. Title VI and its regulations prohibit intentional forms of discrimination as well as actions, policies, and practices with unjustified discriminatory impacts, regardless of intent. In 2001, the Supreme Court ruled in *Alexander v. Sandoval* that aggrieved persons have no private right of action to enforce Title VI unless they can demonstrate intent.⁶³ As a result, people living in environmental justice communities that are environmentally overburdened with toxic releases rely on EPA to require compliance and enforce the law. Without an effective Title VI compliance and enforcement program at EPA, the

⁶³ 532 U.S. 275, 279-86 (2001).

law is an empty vessel. Unfortunately, EPA's Title VI program has been notoriously inadequate.⁶⁴

The Plan EJ2020 Action Agenda Framework again relegates EPA's external civil rights compliance and enforcement program to consideration on another day. Although we support the development of a long-term OCR Strategic Plan, Plan EJ2020 should recognize that Title VI of the Civil Rights of 1964 is one of the cornerstone legal tools for addressing issues of environmental justice⁶⁵ and build specific action items for Title VI compliance and enforcement into all aspects of EPA's operations, especially as they relate to permits, delegation of authority, enforcement, and program approvals.⁶⁶

Relegating Title VI compliance and enforcement to later and separate treatment replicates the mistake made when Plan EJ 2014 failed to provide detail on actions to improve its civil rights program and ultimately released "Draft Supplement: Advancing Environmental Justice Through Title VI of the Civil Rights Act." If, indeed, EPA is committed to improving its civil rights program and recognizing that enforcement of Title VI of the Civil Rights Act of 1964 is an important tool in EPA's efforts to address discrimination and advance environmental justice, the Plan EJ2020 Action Agenda must include a strong and coordinated approach that identifies goals, actions, and metrics to assess performance and to send a clear message to EPA staff and stakeholders. Specifically, the Plan EJ2020 Action Agenda should address the following issues:

- **Process:** EPA must review and modify policies and practices governing communications with complainants and community-based stakeholders in the Title VI enforcement process, both to ensure a more active role for complainants and community-based stakeholders in the enforcement process and to bring Title VI enforcement into line with environmental justice principles and EPA efforts to encourage "meaningful engagement" of overburdened communities in permitting and other decision-making. Although completion of the policy paper "Roles of Complainants and Recipients in the Title VI Complaints and Resolution Process" is a step forward, the Plan EJ2020 Action Agenda should include specific goals, activities, and metrics to ensure changes in practice, including, for example, training for EPA staff and reform of policies that limit interactions of staff with stakeholders.

⁶⁴ See, e.g., Deloitte Consulting LLP, *Final Report: Evaluation of the EPA Office of Civil Rights* at 2 (Mar. 21, 2011), available at http://epa.gov/epahome/ocr-statement/epa-ocr_20110321_finalreport.pdf (citing a "record of poor performance").

⁶⁵ See Dept. of Justice, *Dept. of Justice Guidance Concerning Environmental Justice* at 2 (Dec. 3, 2014), available at http://www.justice.gov/sites/default/files/ej/pages/attachments/2014/12/19/doj_guidance_concerning_ej.pdf.

⁶⁶ Notably, the audit conducted by Deloitte to assess EPA's Office of Civil Rights ("OCR") specifically criticized EPA for operating OCR in "an insular fashion" that limited its effectiveness and for failing to provide clarity regarding internally or externally regarding expectations. Deloitte, *Evaluation of the EPA Office of Civil Rights* at 2, *supra* n.64. Failing again to address these issues in the Plan EJ2020 Action Agenda misses yet another opportunity to address these concerns.

- **Transparency:** EPA still fails to make up-to-date information about Title VI enforcement readily available, including, for example, a docket with links to complaints, resolution agreements, and other official documents on EPA’s website. Although this project is underway, the EJ2020 Action Plan should include goals, activities and metrics to ensure that this project crosses the finish line and then is maintained, reviewed, and improved over time.
- **Strengthen Compliance:** EPA should strengthen its pre-award and post-award compliance review programs, including the collection and review of relevant information. EPA has recently modified Form 4700-4, Preaward Compliance Review Report For All Applicants and Recipients Requesting Federal Financial Assistance, to determine whether applicants for federal financial assistance are developing programs and activities on a non-discriminatory basis. Form 4700-4 is a start, but is insufficient to ensure compliance with Title VI. EPA should require recipients of federal financial assistance to submit a detailed analysis of how it complies with Title VI and EPA’s implementing regulations. State environmental agencies that receive funding from EPA, for example, should provide detailed information on how the agency’s permitting, enforcement, and rulemaking requirements comply. Such documents should be made publicly available for input, and should be reviewed by EPA as part of pre-award and post-award compliance reviews.
- **Legal Standards:** EPA’s second policy paper, “Adversity and Compliance with Environmental Health Based Thresholds,”⁶⁷ is languishing. Providing clarity on the standard for determining adversity in a disparate impact case is a necessary though insufficient step toward revision and finalization of guidance on legal standards. The EJ2020 Action Plan should provide a clear and measurable path forward to removing the “rebuttable presumption” that compliance with health standards is a sufficient defense against a civil rights claim and resolving other uncertainties around the applicable standards by finalizing improved guidance documents.
- **The Backlog:** The EJ 2020 Action Plan should establish activities and a timeline by which EPA will resolve all pending Title VI civil rights complaints in a timely way – with the involvement of complainants and their attorneys and with creative and careful attention to the underlying issues. It is unconscionable that complaints have been languishing with the Office of Civil Rights, in some cases for more than a decade, reinforcing concerns about the integrity of the process. Given EPA’s breach of responsibility and the delay experienced by complainants seeking justice, the agency has a duty not just to complete the investigations, but to address claims raised in the complaints.

⁶⁷ EPA, *Title VI of the Civil Rights Act of 1964: Adversity and Compliance with Environmental Health Based Thresholds*, (Jan. 24, 2013), available at http://www.epa.gov/civilrights/docs/pdf/t6.adversity_paper1.24.13.pdf

- **Capacity & Infrastructure:** The EJ 2020 Action Plan should ensure that the organizational dynamics and challenges outlined in the Deloitte report are fully addressed and contain clear goals, activities and metrics to ensure that scarce agency resources are preserved at all stages of civil rights compliance and enforcement work.
- **Coordination:** The EJ 2020 Action Plan must set forth goals, activities and metrics for EPA's role in coordinating Title VI compliance and enforcement with delegated programs, EPA's regional programs, and other federal agencies. Among other things, EPA must ensure that states submit Title VI plans on an annual basis and should require that funding recipients submit Title VI plans for review.
- **Resolution and Remedies:** The EJ 2020 Action Plan must include specific goals, activities and metrics for reform of its practice to ensure that (a) the alternative dispute resolution program provides sufficient technical assistance to level the playing field for complainants, and (b) when EPA enters a voluntary compliance agreement, remedial measures protect communities and secure Title VI compliance.

Finally, the EJ2020 Action Plan must ensure compliance and enforcement of the prohibition against national origin discrimination affecting LEP persons. Among other things, to comply with the Department of Justice's Title VI requirements pursuant to Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," EPA must finalize its internal LEP plan, and ensure the inclusion of native and indigenous languages as discussed above.⁶⁸

V. CONCLUSION

Commenters appreciate EPA's time considering these comments and would be glad to provide further information if helpful.

Sincerely,

Emma Cheuse
Staff Attorney, Washington, D.C.
 Adrian Martinez
Staff Attorney, Los Angeles, CA

⁶⁸ See LEP.gov, *Executive Order 13166*, <http://www.lep.gov/13166/eo13166.html> ("The Executive Order requires Federal agencies to examine the services they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them. It is expected that agency plans will provide for such meaningful access consistent with, and without unduly burdening, the fundamental mission of the agency. The Executive Order also requires that the Federal agencies work to ensure that recipients of Federal financial assistance provide meaningful access to their LEP applicants and beneficiaries.").

Marianne Engelman-Lado
Staff Attorney, New York, NY
Stephanie Maddin
Legislative Counsel, Washington, D.C.

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Veronica Carter
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Becky Bornhorst
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Dallas, TX

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Water and Enforcement Organizer
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Omega Wilson, Environmental Justice
Consultant
Brenda Wilson, Community Volunteer
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Executive Director
Clean Air Council
Philadelphia, PA 19103

Hilton Kelley
Executive Director & Founder
**Community In-Power and Development
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Port Arthur, TX 77642

Washington

Steven Gilbert
Director
**Institute of Neurotoxicology & Neurological
Disorders**
Seattle, WA 98105

To: Lee, Charles[Lee.Charles@epa.gov]; Browne, Jacqueline[Browne.Jacqueline@epa.gov]
Cc: Amanda Garcia[agarcia@selctn.org]; Amy Kelly[amy.kelly@appvoices.org]; Anne Blair[anne@cleanenergy.org]; Chris Lunghino[chris.lunghino@sierraclub.org]; Jennifer [Ex. 6 - Personal Privacy] Jonathan Levenshus[jonathan.levenshus@sierraclub.org]; Leslie Fields[leslie.fields@sierraclub.org]; Missy Ivie [Ex. 6 - Personal Privacy] Rory McIlmoil[rory@appvoices.org]; Taylor Allred[taylor@cleanenergy.org]
From: Louise Gorenflo
Sent: Fri 5/29/2015 1:54:25 PM
Subject: Tennessee conference call on EJ 2020 concerns
[EJ 2020 concerns.docx](#)

Charles

We look forward to our conference call with you 3:30 ET, Thursday June 4.

The conference call number is [Ex. 6 - Personal Privacy]

Joining me on the call are the following:

- Amanda Garcia (Southern Environmental Law Center)
- Amy Kelly (Appalachian Voices)
- Anne Blair (Southern Alliance for Clean Energy)
- Chris Lunghino (TN Beyond Coal Campaign / Sierra Club)
- Jennifer Alldredge (Alliance to Save Energy)
- Jonathan Levenshus (TN Beyond Coal Campaign / Sierra Club)
- Leslie Fields (EJ Director / Sierra Club)
- Missy Ivie (TN Interfaith Power and Light)
- Rory McIlmoil (Appalachian Voices)
- Taylor Allred (Southern Alliance for Clean Energy)

Please find attached concerns we would like to address on the call.

Thank you, again, for this opportunity.

Louise Gorenflo

To: Charles Lee, EPA

From: Tennessee Interfaith Power & Light

Re: June 4, 2015 phone conversation on the Draft Clean Power Plan (CPP) relevant to EJ 2014 and draft EJ 2020

As we discussed in an earlier phone conversation and in Tennessee Interfaith Power & Light's comments on the draft CPP, the draft CPP fails to require states to adequately consider EJ in their state plan process and decision-making.

We urgently ask EPA to include the following three requirements in the final Clean Power Plan:

- States must engage vulnerable populations in their state planning process;
- States must consider how vulnerable populations will be affected by implementation of the state plans and how they will be protected from disproportionate harm;
- States must share the benefits vulnerable populations that accrue from the implementation of the state plans, such as using energy efficiency to meet emission targets.

Further, we discussed two deficiencies in TN's energy policy infrastructure that make including the above requirements in the final CPP particularly critical:

- TN lacks a public service commission and has no established process to protect consumers, especially lower income customers, from utility cost recovery methods.
- TN lacks any requirement that energy efficiency programs are accessible to and benefit all consumers, including lower income customers;
- Lower income customers currently pay for Tennessee Valley Authority energy efficiency programs but do not have the discretionary income needed to access and benefit from them.

Without EJ requirements in the Clean Power Plan, a foundational government effort to address climate change, the most vulnerable populations – those least responsible for climate change – will bear the greatest burden not only from climate change itself but also from government efforts to reduce carbon emissions. Without requiring EJ within the state planning process, EPA is condemning vulnerable populations to bear both the brunt of climate change and the costs of climate protection.

Louise Gorenflo, TIPL

Ex. 6 - Personal Privacy

To: Lee, Charles[Lee.Charles@epa.gov]
Cc: Emma Cheuse[echeuse@earthjustice.org]; Browne, Jacqueline[Browne.Jacqueline@epa.gov]
From: Stephanie Maddin
Sent: Thur 5/21/2015 5:55:24 PM
Subject: RE: EJ 2020 Session on May 26

Not a problem. I'll resend it again on Tuesday for anyone that missed it.

From: Lee, Charles [<mailto:Lee.Charles@epa.gov>]
Sent: Thursday, May 21, 2015 1:40 PM
To: Stephanie Maddin
Cc: Emma Cheuse; Browne, Jacqueline
Subject: Re: EJ 2020 Session on May 26

Stephanie

Thanks. I think we should use one document and the draft framework document to be better, particularly to promote a dialogue.

Charles

Sent from my iPhone

On May 21, 2015, at 10:14 AM, Stephanie Maddin <smaddin@earthjustice.org> wrote:

That's fine, I've already sent the document but I could also change it into a few slides if you want too. It's not that difficult.

From: Lee, Charles [<mailto:Lee.Charles@epa.gov>]
Sent: Thursday, May 21, 2015 10:08 AM
To: Stephanie Maddin; Emma Cheuse
Cc: Browne, Jacqueline
Subject: Re: EJ 2020 Session on May 26

Stephanie

I left you a voice mail on this. It was my understanding that we would not be doing a webinar, as I will not be in the office and will have access only through a teleconference. It would be easier to walk people through the framework document.

If you think we have a need for a power point, we have one but that may make things more confusing if there are two documents.

Thanks

Charles

From: Stephanie Maddin <smaddin@earthjustice.org>
Sent: Thursday, May 21, 2015 9:50 AM
To: Lee, Charles; Emma Cheuse
Cc: Browne, Jacqueline
Subject: RE: EJ 2020 Session on May 26

If you have the power point you used for the other webinars, can I get it so I can load it for the webinar portion of the call?

From: Lee, Charles [<mailto:Lee.Charles@epa.gov>]
Sent: Tuesday, May 19, 2015 6:25 PM
To: Stephanie Maddin; Emma Cheuse

Cc: Browne, Jacqueline

Subject: EJ 2020 Session on May 26

Stephanie and Emma

I am checking in to see if there is anything you need from me for next Tuesday's call. I am currently in California for the NEJAC meeting this week and want to make sure all is set for this important call.

Thanks

Charles

To: Lee, Charles[Lee.Charles@epa.gov]; Emma Cheuse[echeuse@earthjustice.org]
Cc: Browne, Jacqueline[Browne.Jacqueline@epa.gov]
From: Stephanie Maddin
Sent: Thur 5/21/2015 5:14:27 PM
Subject: RE: EJ 2020 Session on May 26

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From: Lee, Charles [<mailto:Lee.Charles@epa.gov>]
Sent: Thursday, May 21, 2015 10:08 AM
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Cc: Browne, Jacqueline
Subject: Re: EJ 2020 Session on May 26

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Thanks

Charles

To: Lee, Charles[Lee.Charles@epa.gov]; Emma Cheuse[echeuse@earthjustice.org]
Cc: Browne, Jacqueline[Browne.Jacqueline@epa.gov]
From: Stephanie Maddin
Sent: Thur 5/21/2015 1:50:53 PM
Subject: RE: EJ 2020 Session on May 26

If you have the power point you used for the other webinars, can I get it so I can load it for the webinar portion of the call?

From: Lee, Charles [<mailto:Lee.Charles@epa.gov>]
Sent: Tuesday, May 19, 2015 6:25 PM
To: Stephanie Maddin; Emma Cheuse
Cc: Browne, Jacqueline
Subject: EJ 2020 Session on May 26

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Thanks

Charles

To: Lee, Charles[Lee.Charles@epa.gov]; Stephanie Maddin[smaddin@earthjustice.org]
From: Emma Cheuse
Sent: Tue 6/9/2015 1:34:07 PM
Subject: RE: EJ 2020 Public Comment Period Extended to July 14, 2015

Thanks very much, Charles. We received the notice yesterday, and we have forwarded EPA's official announcement to a number of people. Best, Emma

Emma Cheuse

Staff Attorney

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From: Lee, Charles [mailto:Lee.Charles@epa.gov]
Sent: Tuesday, June 09, 2015 9:33 AM
To: Emma Cheuse; Stephanie Maddin

Subject: EJ 2020 Public Comment Period Extended to July 14, 2015

Emma and Stephanie, Here goes again. If you send this to others, please do not use prior e-mail (or cut and paste the relevant information). The other e-mail had some extraneous e-mail traffic included. Thanks, Charles

EPA Extends Public Comment Period on Draft EJ 2020 Action Agenda Framework to July 14, 2015

As a result of robust feedback from stakeholders, the U.S. Environmental Protection Agency (EPA) is extending the public comment period on the draft EJ 2020 Action Agenda (EJ 2020) framework until July 14, 2015.

EPA is seeking public comment on EJ 2020, its next overarching strategic plan to advance environmental justice through EPA's programs, policies and activities, and will support the cross-agency strategy on making a visible difference in environmentally overburdened, underserved, and economically-distressed communities. Stakeholders and the general public can review the framework and submit comments, by visiting www.epa.gov/environmentaljustice/ej2020

"EJ 2020 will build on the foundation established by EPA's Plan EJ 2014, where we were able to improve on EJ in permitting, support community-based programs and develop science tools to access and facilitate grants," said Mustafa Santiago Ali, Senior Advisor to Administrator Gina McCarthy on Environmental Justice. "Although we've made good progress, there's still more to do. We need to strategically identify opportunities for targeted collaboration that benefit overburdened communities. Your voices, experiences and expertise can help shape a strategy that addresses the needs of your communities." Read his [blog](#) for more about how EJ 2020 is about defining new goals for the coming years.

The goals of EJ 2020 are to:

- Deepen environmental justice practice within EPA programs to improve the health and environment of overburdened communities;
- Collaborate with partners to expand our impact within communities; and
- Demonstrate progress on outcomes that matter to communities.

Under Plan EJ 2014, EPA laid a foundation for integrating environmental justice into all its programs, including rule-writing, permitting, enforcement, science and law. Plan EJ 2014 helped to build environmental justice into the agency's regulatory practice, revitalized environmental justice planning across the federal family, and initiated the

development of a cross-cutting Environmental Justice Research Roadmap. To learn more about the accomplishments under Plan EJ 2014, visit <http://epa.gov/environmentaljustice/plan-ej/index.html>.

During the public comment period for EJ 2020, EPA has conducted many informational and dialogue sessions with partners and stakeholder groups. For more information about these opportunities, please visit <http://www.epa.gov/environmentaljustice/ej2020>.

Environmental justice is defined as the fair treatment and meaningful involvement of all people, regardless of race or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. EPA's goal is to provide an environment where all people enjoy equal access to the environmental decision-making process to maintain a healthy environment in which to live, learn, and work. EPA's environmental justice work is an outgrowth of Executive Order 12898, signed by President Clinton in 1994, that requires federal agencies to address the disproportionately high and adverse human health or environmental effects of their programs on minority and low-income populations.

For more information about EPA's environmental justice work, visit: <http://www.epa.gov/environmentaljustice/>

To: Lee, Charles[Lee.Charles@epa.gov]
Cc: Tejada, Matthew[Tejada.Matthew@epa.gov]; Stephanie Maddin[smaddin@earthjustice.org]; Adrian Martinez[amartinez@earthjustice.org]
From: Emma Cheuse
Sent: Mon 6/8/2015 1:46:48 PM
Subject: RE: EJ 2020

Dear Charles,

Just checking in re: request for extension of the deadline on Plan EJ2020.

Very best,

Emma

Emma Cheuse

Staff Attorney

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To: Stephanie Maddin; Emma Cheuse
Cc: Browne, Jacqueline
Subject: Re: EJ 2020 Session on May 26

Stephanie

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Thanks

Charles

To: Sara Chieffo[Sara_Chieffo@lcv.org]; 'Stephanie Maddin'[smaddin@earthjustice.org]; Ernesto Vargas[Ernesto_Vargas@lcv.org]
Cc: Lee, Charles[Lee.Charles@epa.gov]; Sinha, Prasiddh[Sinha.Prasiddh@epa.gov]
From: Tejada, Matthew
Sent: Tue 6/16/2015 9:08:33 PM
Subject: RE: Introductions

Hey Sara

Actually that morning would work for me. I will have Mr. Sinha, copied here, reserve a room for us from 10:30-11:30 that morning in EPA's William Jefferson Clinton Building and then send a calendar invite to you that you can pass along to your people. He will follow up with more information.

Thanks,

Matthew

Matthew Tejada

Director - Office of Environmental Justice

Environmental Protection Agency

202-564-8047

From: Sara Chieffo [mailto:Sara_Chieffo@lcv.org]
Sent: Tuesday, June 16, 2015 10:54 AM
To: 'Stephanie Maddin'; Ernesto Vargas
Cc: Lee, Charles; Tejada, Matthew
Subject: RE: Introductions

Thanks so much for the introductions, Stephanie. It is a pleasure to meet you, Matt and Charles. I wanted to ask a timely request.

First, we are thrilled that Administrator McCarthy will be able to speak at this year's LCV

Education Fund annual dinner on June 23. LCV staff and state LCV partners from across the country are joining us in D.C. for this marquee event. As part of this effort, our Latino Outreach Program is bringing in organizers from CO, NV, and AZ and we would greatly appreciate the chance to have these organizers and the senior Latino Outreach program staff meet with administration staff from EPA's Office of Environmental Justice.

I was hoping you both would be able for a meeting with on the morning of June 24 (best window is between 9am and noon, and outside meeting attendees are listed below). We are hoping to use this time to discuss the exciting clean energy organizing we have been doing in CO, NM, and AZ (and soon expanding to NV) and learn more about how we can best support OEJ's efforts. We also hope to discuss upcoming organizing our Latino program is planning around pushing for clean energy solutions that protect all communities as part of the state implementation of the Clean Power Plan.

June 24 – Proposed Meeting Attendees

- [REDACTED] Michael Nazario (Organizer – AZ)
- [REDACTED] Rocio Castruita (Organizer—AZ)
- [REDACTED] Dulce Saenz (Program Director – CO)
- [REDACTED] Martha Silva (Communications Manager – CO)
- [REDACTED] Vicente Garcia (Program Director – NM)
- [REDACTED] Victoria Padilla (Organizer – NM)
- [REDACTED] Ernesto Vargas (Deputy Director, Latino Outreach Program, based in DC)
- [REDACTED] Jennifer Allen (Director, Latino Outreach Program, based in AZ)
- [REDACTED] Sara Chieffo (VP, Government Affairs, based in DC)

I apologize for the late request. Please feel free to give me a ring to discuss this request – my cell is [REDACTED]

Best,

Sara

--

Sara Chieffo

Vice President, Government Affairs

League of Conservation Voters

202-454-4581 (office) Ex. 6 - Personal Privacy (cell)

sara_chieffo@lcv.org | @LCVoters

From: Stephanie Maddin [<mailto:smaddin@earthjustice.org>]

Sent: Monday, June 15, 2015 3:51 PM

To: Sara Chieffo; Ernesto Vargas

Cc: 'Lee, Charles'; Tejada, Matthew

Subject: Introductions

Charles and Matt,

I'd like to introduce you to Sara Chieffo and Ernesto Vargas. Sara is the Legislative Director in the DC office of the League of Conservation Voters and Ernesto is the Deputy Director of Latino Outreach. They have some exciting outreach work in the cue and I thought you both would be a great resource!

Very best,

Stephanie Maddin

Legislative Counsel

Earthjustice D.C. Office

1625 Massachusetts Avenue NW

Suite 702

Washington DC, 20036

T: 202-745-5210

F: 202-667-2356

earthjustice.org

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twitter.com/earthjustice



Because the earth needs a good lawyer

To: Lee, Charles[Lee.Charles@epa.gov]; Emma Cheuse[echeuse@earthjustice.org]
Cc: Browne, Jacqueline[Browne.Jacqueline@epa.gov]; Tejada, Matthew[Tejada.Matthew@epa.gov]
From: Stephanie Maddin
Sent: Thur 5/7/2015 7:18:49 PM
Subject: RE: EJ 2020 Session

Charles and Matt,

Thanks so much for the helpful discussion. We would like to get something on the calendar as soon as possible.

Jackie,

Could we schedule a 90 minute call from starting at 2pm EST on either the 26th or 27th?

Very best,

Stephanie Maddin

Ex. 6 - Personal Privacy

From: Lee, Charles [mailto:Lee.Charles@epa.gov]
Sent: Wednesday, May 06, 2015 11:01 AM
To: Emma Cheuse; Stephanie Maddin
Cc: Browne, Jacqueline; Tejada, Matthew
Subject: EJ 2020 Session

Stephanie and Emma

Thanks for the discussion yesterday. It was very fruitful. I wanted to follow up on scheduling

the EJ 2020 discussion with Earthjustice and your partners. Let me know some times what work during the dates of May 26, 27 or 28. If you need to, I can do this after 12 noon EST. Jackie Browne helps with the scheduling on this and she is copied.

Thanks

Charles

Charles Lee
Deputy Associate Assistant Administrator for Environmental Justice
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (MC 2201A)
William Jefferson Clinton Building South, Room 2226B
Tel: 202-564-2597
Fax: 202-564-1624

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To: Lee, Charles[Lee.Charles@epa.gov]
From: Leslie Fields
Sent: Mon 3/23/2015 9:31:22 PM
Subject: so sorry to miss meeting with you

is it too late? thanks, Leslie

--

Leslie G. Fields
Director, Environmental Justice & Community Partnerships Program
Sierra Club
50 F Street NW, Eighth Floor
Washington, DC 20001
202-548-4586
Leslie.Fields@sierraclub.org
www.sierraclub.org/ejcp

To: Lee, Charles[Lee.Charles@epa.gov]
From: Marianne Engelman Lado
Sent: Fri 1/16/2015 4:01:50 PM
Subject: Thursday the 22nd

Charles:

Just checking in: would breakfast or coffee on the morning of the 22nd work for you? I'm trying to finalize my schedule.

Thanks,

Marianne

Marianne Engelman Lado

Managing Attorney, Northeast Office

Earthjustice

48 Wall Street, 19th Floor

New York, NY 10005

T: 212.845.7393

F: 212.918.1556

earthjustice.org



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To: Lee, Charles[Lee.Charles@epa.gov]
From: Marianne Engelman Lado
Sent: Thur 1/15/2015 5:13:15 PM
Subject: RE: Thursday January 22nd

Great. I was just sitting down to nail down my calendar.

Are you free either Wednesday the 21st for dinner or Thursday the 22nd in the morning ? I'm open after 6 on Wednesday and, right now, before noon on Thursday.

Looking forward to it.

Marianne

From: Lee, Charles [<mailto:Lee.Charles@epa.gov>]
Sent: Thursday, January 15, 2015 11:53 AM
To: Marianne Engelman Lado
Subject: RE: Thursday January 22nd

Marianne

Great to hear from you. I would love to get together. Let's figure out a time.

Charles

From: Marianne Engelman Lado [<mailto:mengelmanlado@earthjustice.org>]
Sent: Monday, January 12, 2015 1:22 PM
To: Lee, Charles
Subject: Thursday January 22nd

Charles,

I'm planning on coming to DC January 21st through 23rd and was hoping to have the chance to touch base. Would you have time for coffee or lunch on Thursday the 22nd?

All the best,

Marianne

Marianne Engelman Lado

Managing Attorney, Northeast Office

Earthjustice

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To: Lee, Charles[Lee.Charles@epa.gov]
From: Marianne Engelman Lado
Sent: Mon 1/12/2015 6:21:33 PM
Subject: Thursday January 22nd

Charles,

I'm planning on coming to DC January 21st through 23rd and was hoping to have the chance to touch base. Would you have time for coffee or lunch on Thursday the 22nd?

All the best,

Marianne

Marianne Engelman Lado

Managing Attorney, Northeast Office

Earthjustice

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To: Lee, Charles[Lee.Charles@epa.gov]
From: Marianne Engelman Lado
Sent: Fri 1/16/2015 4:27:41 PM
Subject: RE: Thursday the 22nd

Fantastic!

I'm staying at the Phoenix Park Hotel, 520 N. Capitol Street, NW. Is that convenient for you?

Let's say 8 am. Perhaps I can sneak in an early morning run before we meet.

From: Lee, Charles [<mailto:Lee.Charles@epa.gov>]
Sent: Friday, January 16, 2015 11:24 AM
To: Marianne Engelman Lado
Subject: RE: Thursday the 22nd

Marianne

Meaning to get back to you. Breakfast (or coffee) on 1/22 would be great. How about 7:30 am/8:00 am/8:30 am. The earlier the better. Where are you staying. I can swing by there.

Charles

From: Marianne Engelman Lado [<mailto:mengelmanlado@earthjustice.org>]
Sent: Friday, January 16, 2015 11:02 AM
To: Lee, Charles
Subject: Thursday the 22nd

Charles:

Just checking in: would breakfast or coffee on the morning of the 22nd work for you? I'm trying to finalize my schedule.

Thanks,

Marianne

Marianne Engelman Lado

Managing Attorney, Northeast Office

Earthjustice

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T: 212.845.7393

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earthjustice.org



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delete the message and any attachments.

To: Lee, Charles[Lee.Charles@epa.gov]
From: Marianne Engelman Lado
Sent: Tue 4/1/2014 11:51:08 AM
Subject: RE: Follow Up

Ah. Sorry I won't see you down here. I'll be out in Wallace today and in Chapel Hill tomorrow at UNC.

I don't have a good sense of how the implementation is going, though I could find out more. I was somewhat involved in the commenting process and was part of some of the thinking around the proposal. It's not clear to me how it's working out so far.

Happy to talk next week and perhaps to do a little digging if it'd be helpful.

Good luck with the keynote.

Best,

Marianne

From: Lee, Charles [Lee.Charles@epa.gov]
Sent: Tuesday, April 01, 2014 4:49 AM
To: Marianne Engelman Lado
Subject: RE: Follow Up

Sorry these times won't work. I am in North Carolina this week as well. I am doing the keynote for the Duke Environmental Law and Policy Forum on Friday 4/4. They are doing a symposium on the 20th anniversary of EO 12898. I will be on a plane Thursday at 4. Perhaps next week.

The main thing I wanted your thoughts on was implementation of NYS's Article X Power Plan Siting Law. Has it been successful? What are lessons and challenges.

Thanks much
Charles

-----Original Message-----

From: Marianne Engelman Lado [mailto:mengelmanlado@earthjustice.org]
Sent: Tuesday, April 01, 2014 7:42 AM
To: Lee, Charles
Subject: RE: Follow Up

Definitely.

I'm traveling around North Carolina today. On my way to Wallace. Can it wait until later in the week? I'm open on Thursday at 4 or Friday at 4:30. Do either of those times work?

Good to see you.

Best,

Marianne

From: Lee, Charles [Lee.Charles@epa.gov]
Sent: Tuesday, April 01, 2014 12:19 AM
To: Marianne Engelman Lado

Subject: Follow Up

Marianne

Do you have a few minutes. I would like to talk about a few items. Tell me when is a good time.

Thanks

Charles

To: Lee, Charles[Lee.Charles@epa.gov]
From: Marianne Engelman Lado
Sent: Tue 4/1/2014 11:42:01 AM
Subject: RE: Follow Up

Definitely.

I'm traveling around North Carolina today. On my way to Wallace. Can it wait until later in the week? I'm open on Thursday at 4 or Friday at 4:30. Do either of those times work?

Good to see you.

Best,

Marianne

From: Lee, Charles [Lee.Charles@epa.gov]
Sent: Tuesday, April 01, 2014 12:19 AM
To: Marianne Engelman Lado
Subject: Follow Up

Marianne

Do you have a few minutes. I would like to talk about a few items. Tell me when is a good time.

Thanks

Charles

To: **Ex. 6 - Personal Privacy**
Cc: rita.harris@sierraclub.org; rita.harris@sierraclub.org; Lee, Charles[Lee.Charles@epa.gov];
Ex. 6 - Personal Privacy
From: Leslie Fields
Sent: Wed 6/18/2014 5:23:55 AM
Subject: RE: our new website has pictures of you from the Feb NEJAC meeting

Thanks Vernice

This website is still under construction. There are issues with it so as I deal with it I wanted you all know. -L

On Jun 17, 2014 10:59 PM, "Vernice Miller-Travis" **Ex. 6 - Personal Privacy** wrote:

Hi Leslie,

Thanks for the heads-up about this post on Sierra Club's website.

Thank you too Rita for reminding us of how far we have come. I'm especially thankful to have been on this journey with you and our other colleagues shown in the pictures.

Sending you all my warmest regards.

Vernice

Date: Tue, 17 Jun 2014 17:37:26 -0400
Subject: our new website has pictures of you from the Feb NEJAC meeting
From: leslie.fields@sierraclub.org
To: lee.charles@epa.gov; **Ex. 6 - Personal Privacy**

Dear Friends

We have recently redesigned our website and a pictures of our EJ organizer Rita Harris were taken that also includes all of you. Rita wrote a column about the NEJAC meeting and the 20th anniversary of EO 12898 (as did I). These pictures are on: <http://www.sierraclub.org/compass/2014/02/witness-environmental-justice-over-20-years>. I didn't know these pictures were to be included and wanted to inform all of you. Please don't hesitate to let me know if this is problem. thanks, Leslie

--

Leslie G. Fields
Director, Environmental Justice & Community Partnerships Program
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50 F Street NW, Eighth Floor
Washington, DC 20001
[202-548-4586](tel:202-548-4586)
Leslie.Fields@sierraclub.org
www.sierraclub.org/ejcp

To: Lee, Charles[Lee.Charles@epa.gov]; **Ex. 6 - Personal Privacy**

Ex. 6 - Personal Privacy

From: Leslie Fields

Sent: Tue 6/17/2014 9:37:26 PM

Subject: our new website has pictures of you from the Feb NEJAC meeting

Dear Friends

We have recently redesigned our website and a pictures of our EJ organizer Rita Harris were taken that also includes all of you. Rita wrote a column about the NEJAC meeting and the 20th anniversary of EO 12898 (as did I). These pictures are on: <http://www.sierraclub.org/compass/2014/02/witness-environmental-justice-over-20-years>. I didn't know these pictures were to be included and wanted to inform all of you. Please don't hesitate to let me know if this is problem. thanks, Leslie

--

Leslie G. Fields

Director, Environmental Justice & Community Partnerships Program

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To: **Ex. 6 - Personal Privacy** Patrice Simms[PSimms@law.howard.edu]; Jalonne White-Newsome[jalonne@weact.org]; King, Marva[King.Marva@EPA.GOV]; Quentin Pair (External)[Quentin.Pair@usdoj.gov]; **Ex. 6 - Personal Privacy** Patterson, Jacqueline[jpatterson@naacpnet.org]; Sandra Jibrell, **Ex. 6 - Personal Privacy** Neal, Daria (CRT)[Daria.Neal@usdoj.gov]; Brandi Colander, **Ex. 6 - Personal Privacy** Lee, Charles[Lee.Charles@epa.gov]; jsass@nrdc.org[jsass@nrdc.org]; eolson@nrdc.org[eolson@nrdc.org]
From: Leslie Fields
Sent: Fri 9/12/2014 10:13:24 PM
Subject: Fwd: Childrens' Environmental Health Network Ninth Annual Award Reception flyer awards.pdf

Dear Friends

I hope you're well. I am writing to you to entreat you to attend the Childrens' Environmental Health Network Ninth Annual Award Reception with me on October 6, 2014. I am proud to be on the board of this great organization. The flyer is attached. The reception will be a lovely affair, so please let me know if you're interested and feel free to forward to others. Thanks, Leslie

Monday October 6th - CEHN's Ninth Annual Child Health Advocate Award Reception
Please register, bring guests, and help us market the event widely.

5:30-8:00pm EST at Pew Charitable Trusts in Washington, DC

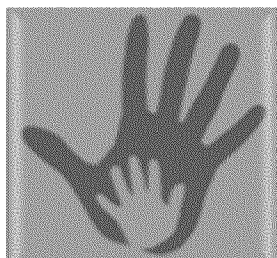
<https://www.regonline.com/builder/site/Default.aspx?EventID=1571296>

Get involved in children's environmental health!
Join the Network's Community listserv
and/or Science listserv. Subscribe by going to
www.cehn.org<<http://www.cehn.org>> .

--

Leslie G. Fields
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www.sierraclub.org/ejcp

**THE CHILDREN'S
ENVIRONMENTAL HEALTH
NETWORK'S
NINTH ANNUAL CHILD HEALTH
ADVOCATE AWARD RECEPTION**



Sponsorship opportunities are still available!

Click [here](#) for more information.

WHEN

October 6, 2014

5pm - 8pm

WHERE

Pew Charitable Trusts

9th floor, 901 E Street NW

Washington, DC, 20004

WHAT AND WHO

Honoring key leaders, including youth, within
the field of children's environmental health

REGISTER HERE: [WWW.REGONLINE.COM/
CEHNAWARD2014](http://WWW.REGONLINE.COM/CEHNAWARD2014)

**PLEASE JOIN
US!**

Award recipients:

SCIENCE AWARD

Dr. Tracey Woodruff,
UCSF School of Medicine

POLICY AWARD

Dr. Richard Jackson,
UCLA Fielding School of
Public Health

**COMMUNITY
AWARDS**

Dr. Barbara Minzenberg,
Pennsylvania's Office of
Child Development and
Early Learning

Ms. Maureen Murphy,
Pennsylvania Key

**N.O.W. YOUTH
LEADERSHIP
AWARDS**

Mr. Nathan McEmrys,
Portland, OR

Ms. Roxana Reisch, Roch-
ester, NY

To: Lee, Charles[Lee.Charles@epa.gov]
From: Stephanie Maddin
Sent: Mon 3/17/2014 5:20:35 PM
Subject: Out of Office: Weather impeded travel back-up plan

I am out of the office until 3/24/14. In case of emergency, I can be reached by cell at

Ex. 6 - Personal Privacy

To: Lee, Charles[Lee.Charles@epa.gov]
From: Leslie Fields
Sent: Thur 2/26/2015 9:42:54 PM
Subject: Re: Meeting Request

The week of March 9. thanks

On Thu, Feb 26, 2015 at 4:36 PM, Lee, Charles <Lee.Charles@epa.gov> wrote:

Leslie

Can I set up a time to talk with you. We are getting ready to do community and stakeholder engagement on our next EJ strategic plan. I want to do a number of one-on-one meetings with key people, such as yourself, before we proceed. Let me know when would be a good time to meet.

Thanks

Charles Lee
Deputy Associate Assistant Administrator for Environmental Justice
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (MC 2201A)
William Jefferson Clinton Building South, Room 2226B
Tel: [202-564-2597](tel:202-564-2597)
Fax: [202-564-1624](tel:202-564-1624)

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--
Leslie G. Fields

Director, Environmental Justice & Community Partnerships Program
Sierra Club
50 F Street NW, Eighth Floor
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202-548-4586
Leslie.Fields@sierraclub.org
www.sierraclub.org/ejcp

To: Lee, Charles[Lee.Charles@epa.gov]
From: Leslie Fields
Sent: Mon 9/8/2014 9:17:57 PM
Subject: where's EPA on Incorporating EJ into Rulemaking under EJ Plan 2014?

Hi Mustafa

Where's EPA on Incorporating EJ into Rulemaking under EJ Plan 2014? Just wondering.
Thanks, Leslie

--

Leslie G. Fields
Director, Environmental Justice & Community Partnerships Program
Sierra Club
50 F Street NW, Eighth Floor
Washington, DC 20001
202-548-4586
Leslie.Fields@sierraclub.org
www.sierraclub.org/ejcp

Bcc: Lee, Charles[Lee.Charles@epa.gov]
To: Leslie Fields[leslie.fields@sierraclub.org]
From: Lee, Charles
Sent: Tue 5/24/2016 1:03:08 AM
Subject: Re: tried to call you.

Leslie

Thanks. Do you have Aaron Maier's contact info. I want to give him a call.

Thanks
Charles

Sent from my iPhone

On May 23, 2016, at 6:35 PM, Leslie Fields <leslie.fields@sierraclub.org> wrote:

Congratulations on EJ 2020. I'll try to get through as soon as I can. I received your vm & tried to call you back but I think I wrote down the number wrong (I do that all the time).
thanks, Leslie

--

Leslie G. Fields
Director, Environmental Justice & Community Partnerships Program
Sierra Club
50 F Street NW, Eighth Floor
Washington, DC 20001
202-548-4586
Leslie.Fields@sierraclub.org
www.sierraclub.org/ejcp

To: Emma Cheuse[echeuse@earthjustice.org]; Tejada, Matthew[Tejada.Matthew@epa.gov]
From: Lee, Charles
Sent: Mon 5/23/2016 7:44:28 PM
Subject: RE: [News] EPA Commits to Strengthen Enforcement for Communities Hit Hardest by Environmental Injustice

Emma

Thank you very much!

Charles

From: Emma Cheuse [mailto:echeuse@earthjustice.org]
Sent: Monday, May 23, 2016 3:41 PM
To: Lee, Charles <Lee.Charles@epa.gov>; Tejada, Matthew <Tejada.Matthew@epa.gov>
Subject: FW: [News] EPA Commits to Strengthen Enforcement for Communities Hit Hardest by Environmental Injustice

Good afternoon, we wanted you to have the statement we sent out today on EPA's announcement of Plan EJ 2020. Best regards, Emma

For Immediate Release
Monday May 23, 2016

Contacts:

Lisa Garcia | Earthjustice, (202) 797-5244 | lgarcia@Earthjustice.org; Daveon Coleman | Earthjustice | (202) 745-5222 | dcoleman@earthjustice.org | Vernice Miller-Travis (Maryland) | (301) 537-2115 / Hilton Kelley, Community In-Power And Development Association (Port Arthur, TX) | **Ex. 6 - Personal Privacy** | Jesse Marquez | Coalition For A Safe Environment (Wilmington, CA) | **Ex. 6 - Personal Privacy**

EPA Commits to Strengthen Enforcement for Communities Hit Hardest by Environmental Injustice

2020 Action Plan highlights how pollution hazards go hand in hand with racial and economic

inequality.

WASHINGTON, D.C. — Earthjustice commends the U.S. Environmental Protection Agency for recognizing the need for a renewed commitment to end environmental injustice, and for committing to target enforcement efforts to reduce environmental hazards in at least 100 communities that face the highest burdens from pollution in the United States.

Today, the EPA announced this effort with the release of its Environmental Justice 2020 Action Agenda. The agency will receive public comments about this plan during a 45-day comment period that will end July 7, 2016.

Statement by Lisa Garcia, Earthjustice's Vice President of Litigation for Healthy Communities:

"Today Administrator McCarthy and the many EPA staff who assisted with this plan should be commended for continuing to make environmental justice a priority. We also must recognize all of the environmental justice and civil rights leaders for their dedication in pushing the EPA to issue today's call to action to reduce environmental and health disparities. Communities of color, low-income, and indigenous communities have the same right to clean air, clean water and a healthy environment but have been too often ignored by federal policies and decision-making. This Plan reflects an important recognition that federal actions have sometimes failed to protect the communities hit hardest by pollution, and that EPA must start attacking entrenched environmental injustice by upping its game, especially when it comes to enforcement actions.

Whether EPA strengthens important policy commitments and actually delivers meaningful health protection for the most overburdened, and long-ignored communities will be the real test of today's announcement. Earthjustice will continue working with community partners to insist that EPA follow the law, fulfill its commitments under this plan, and achieve stronger health protection for communities from lead, freight and port pollution, particulate matter, and other toxic air, water, and waste exposure. EPA's plan is a step in the right direction to start making up for that injustice, and to achieve its commendable goals, EPA must fully include community leaders and voices in following up on its plan to hold agency officials accountable and strengthen their actions, every step of the way," said **Lisa Garcia, Earthjustice Vice President of Litigation for Healthy Communities.**

Statement from Vernice Miller-Travis, Vice-Chair, Maryland Commission on Environmental Justice and Sustainable Communities:

"Today's Plan is a quantum leap forward for EPA to prioritize the needs of environmental justice communities around the country, and this document goes a long way toward addressing those needs," said **Vernice Miller-Travis, Vice-Chair, Maryland Commission on Environmental Justice and Sustainable Communities.** "However, we know this will only happen if there is complete commitment from the White House and EPA, going forward, to fully implement and strengthen this plan, and make it real in the lives of everyday people across the country who are facing unjust and undue burdens from environmental threats to their health and well-being."

Statement from Hilton Kelley, Executive Director, Community In-Power & Development Association, Inc.:

"EPA is taking a step in the right direction when it comes to enforcing compliance and

incorporating environmental justice into all of their actions, as well as exploring new ways they should collaborate with states, tribal, and local governments because these regulators need a lot more direction. We know more can and should be done, especially on monitoring and compliance to protect community health and the environment, in communities like Port Arthur and Houston, TX, Mossville, LA, and other Gulf communities,” said **Hilton Kelley, Executive Director, Community In-Power & Development Association.**

Statement from Jesse Marquez, Executive Director, Coalition For A Safe Environment:

“We applaud the new visions of the EJ 2020 EPA Action Agenda to focus on other agencies like the US Army Corps of Engineers, which does not have an Environmental Justice Division or Executive Officer, to address the significant negative impacts and environmental law violations of air pollution, noise, traffic congestion, public safety and public health impacts of ports and freight transportation corridors which they have neglected in the past. Recent Port of Los Angeles matters we have worked on are examples of what is wrong with the current environmental and community impact review, assessment and compliance process,” said **Jesse Marquez, Executive Director, Coalition For A Safe Environment.**

History behind Plan EJ 2020

Former EPA Administrator Lisa Jackson initiated the first effort through Plan EJ2014 to integrate environmental justice analysis into all EPA programs as a way of implementing President Clinton’s 1994 Environmental Justice Executive Order, through guidance on rulewriting, permitting, and enforcement, science, law and mapping tools.

That effort was followed by Administrator McCarthy’s EJ 2020 Action Agenda, the EPA’s Environmental Justice Strategic Plan for 2016-2020, which for the first time, makes substantive commitments to reduce or reverse environmental harm that falls hardest on communities of color, low-income, and indigenous communities.

Before coming to Earthjustice, Lisa Garcia worked previously as an environmental justice advisor to EPA Administrator Gina McCarthy and former Administrator Lisa Jackson.

More details on Plan EJ 2020

Available at:

<https://www.epa.gov/environmentaljustice/ej-2020-action-agenda>

<https://www.epa.gov/environmentaljustice/draft-environmental-justice-2020-action-agenda-framework>

In addition to recognizing the need for fair and just environmental enforcement, ensuring resources are fully applied to fulfill legal protection for at least 100 overburdened communities, the EPA has committed through EJ 2020 to a deeper focus of action on what the agency calls four “significant national environmental justice challenges,” which include:

- ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ reducing children’s blood-lead levels and national action to reduce lead in drinking water;

- ensuring community drinking water systems meet federal health standards;
- reducing fine particle pollution to meet national air quality standards for low-income communities; and
- reducing exposure to contamination at hazardous waste sites.

The specific commitments in these areas should be much stronger, but it is symbolically important that for the first time EPA recognizes it has not done enough in these areas, and that the agency must do more to protect people disproportionately exposed to these hazards.

EPA's plan is an important recognition by the nation's environmental experts that injustice exists due to the fact that low-income communities, communities of color, and indigenous communities are subjected to higher levels of pollution, in part because of where polluting sources, like power plants, refineries, landfills and waste treatment facilities are placed, and because EPA has often failed to protect these communities. Communities of color and low-income communities face disproportionate health threats from preventable diseases like asthma and cancer both because of the heavier health burden caused by pollution and toxic exposure, and because EPA has not set or enforced strong enough standards to protect them.

Earthjustice's work on environmental justice strategy

In 2015, Earthjustice filed comments on EPA's draft EJ2020 framework on behalf of 51 environmental, community, farmworker, and environmental justice groups and will continue working to strengthen health protection on environmental hazards included and not included in EPA's strategic plan.

As EPA moves forward, Earthjustice will continue calling on EPA to further strengthen its commitments on the issues it highlights like lead and air quality, and additional important issues like protecting farmworkers and their communities from pesticide exposures, where much more progress is needed to protect communities' health. In the realm of enforcement, in addition to committing more resources as the plan does, EPA also must remove all unlawful regulatory exemptions and loopholes that undermine pollution standards, stop high-priority violators who frequently expose communities to dangerous pollution including from short-term violations that have a significant impact on public health, reform its Title VI external compliance program, and strengthen monitoring and public transparency in addressing the cumulative toxins and environmental hazards harming communities' health.

Read the full release online:

<http://earthjustice.org/news/press/2016/epa-commits-to-strengthen-enforcement-for-communities-hit-hardest-by-environmental-injustice>

Earthjustice, the nation's premier nonprofit environmental law organization, wields the power of law and the strength of partnership to protect people's health, to preserve magnificent places and wildlife, to advance clean energy, and to combat climate change. Because the earth needs a good lawyer.

This email was sent to dcoleman@earthjustice.org
Earthjustice, 1625 Mass. Ave., NW, Ste. 702, Washington, District of Columbia 20036, United
States
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To: Emma Cheuse[echeuse@earthjustice.org]
From: Lee, Charles
Sent: Tue 11/17/2015 10:07:19 PM
Subject: Meeting on Thursday
[Earthjustice CRA Comments 06-28-13.pdf](#)

Hi Emma

I look forward to our breakfast meeting on Thursday 11/19 (8 am) at Au Bon Pain (12th and E Streets NW). I wanted to get a better understanding of your comments on cumulative risk assessment submitted on June 28, 2013.

Thanks

Charles

COMMENTS SUBMITTED TO ENVIRONMENTAL PROTECTION AGENCY

**Air Alliance Houston, Alaska Community Action on Toxics,
American Bottom Conservancy, California Communities Against Toxics,
California Safe Schools, The City Project, Community In-Power and Development
Association, Deep South Center for Environmental Justice, Del Amo Action Committee,
Downwinders At Risk, Earthjustice, Ironbound Community Corporation,
Louisiana Bucket Brigade, Louisiana Environmental Action Network, Los Jardines
Institute, Lower Mississippi Riverkeeper, Missouri Coalition for the Environment,
Natural Resources Defense Council, Neighbors for Clean Air, New Mexico Environmental
Law Center, North Carolina Environmental Justice Network, Oak Grove Neighborhood
Association, Poverty & Race Research Action Council, Public Interest Law Center of
Philadelphia, Royal Oak Concerned Citizens Association, Rural Empowerment Association
for Community Help, Sierra Club, Southern Environmental Law Center,
West End Revitalization Association**

To: Office of the Science Advisor, U.S. Environmental Protection Agency
Cc: Bob Perciasepe, Acting Administrator, U.S. EPA
Re: Notice, Request for Information and Citations on Methods for Cumulative Risk
Assessment, EPA-HQ-ORD-2013-0292; FRL-9807-5, 78 Fed. Reg. 25,440 (May 1,
2013)
Date: June 28, 2013 (Submitted via e-mail and regulations.gov)

SUMMARY

The dire reality is that environmental hazards affect some communities much more than others. Pollution and polluting sources are often concentrated together, overburdening and overwhelming communities and populations, and causing greater health effects.¹ Current risk assessment practices, which have failed to keep up with current science and do not account for real-world impacts, jeopardize the health of communities surrounded by sources of pollution – such as coal plants, refineries, cement kilns, chemical plants, metal smelters, incinerators, dry cleaners, highways, truck routes, Superfund and other hazardous waste sites.

In order to fulfill the agency's renewed commitment to environmental justice, as outlined in Plan EJ 2014 and the recommendations from the National Academy of Sciences, National Research Council, EPA must update its approach to account for the cumulative impacts and risks faced from early-in-life exposure (including childhood) and from exposure to multiple sources, as well as the increased vulnerability from socioeconomic stressors, and multiple pollutant and

¹ Cal. EPA, Office of Env'tl. Health Hazard Assessment ("OEHHA"), "Cumulative Impacts: Building a Scientific Foundation" (Dec. 31, 2010), <http://oehha.ca.gov/ej/pdf/CIReport123110.pdf> (citing numerous research studies showing that exposure to pollution-emitting facilities, hazardous waste facilities and disposal, toxic releases, non-attainment air areas, high motor vehicle air pollution areas, and other types of pollution is more likely to be concentrated in communities with higher minority and lower income populations).

pathway exposures.² To this end, we urge the Risk Assessment Forum Technical Panel to do the following:

Incorporate the real-world experience and perspective of people who live in communities that are overburdened by pollution and other environmental hazards.

Too many communities of color and lower income communities are exposed to a disproportionate share of air pollution and all of the resulting health risks and impacts. We have attached statements that summarize the situation and provide stories from various example communities around the United States that describe the on-the-ground impact of EPA's scientific policy decisions and the urgency of reforms in risk assessment practices. (Appendix E)

Advance environmental justice and protect public health by establishing guidance which provides a means to reduce cumulative impacts in overburdened communities.

There is clear and mounting evidence that the concentration of environmental hazards in lower income communities and communities of color threatens public health and that current risk assessment practices contribute to environmental inequities and increase disparities. Experts have identified addressing cumulative impacts as a critical step to ensuring environmental justice and reducing disparities. At minimum, this must include:

- (1) Immediately updating existing guidelines for conducting risk-based assessments to incorporate mechanisms for accounting for the cumulative impacts of multiple exposures and underlying vulnerabilities;

and

- (2) Moving beyond current risk frameworks and incorporating alternate methods to assess health threats from environmental exposures in a way that will better capture the impacts faced by overburdened communities and support policies to reduce them.

We appreciate your time and careful consideration of all of these issues, and we urge you to show strong leadership and issue up-to-date guidance without delay so that EPA actions will finally reflect the best available science. Commenters also urge EPA to consider and incorporate the feedback of affected communities and of experts in the field, including the work of those cited in these comments, into EPA's effort.

For more information on the issues discussed in these comments, please contact: Miriam Rotkin-Ellman, Senior Scientist, Natural Resources Defense Council (mrotkinellman@nrdc.org), Emma Cheuse, Senior Associate Attorney, Earthjustice (echeuse@earthjustice.org), and Marianne Engelman Lado, Staff Attorney, Environmental Health Group, Earthjustice (mengelmanlado@earthjustice.org).

² EPA, Plan EJ 2014, <http://www.epa.gov/compliance/ej/plan-ej/>.

I. TO ADVANCE ENVIRONMENTAL JUSTICE, EPA MUST REDUCE CUMULATIVE IMPACTS IN OVERBURDENED COMMUNITIES.

The concentration of environmental hazards in lower income communities and communities of color threatens public health and results in disparities.

The scientific data show that environmental hazards affect some communities much more than others. Pollution and polluting sources are often concentrated together, overburdening and overwhelming communities and populations, and causing greater health effects.³

These same communities – with many polluting sources and toxic sites – are often cities, towns, or neighborhoods that have higher numbers of people of color and people with lower income than the national average (or city or state averages).⁴ A growing body of scientific research shows that communities with significant populations of people of color and lower income people are more exposed to environmental hazards and face greater harm from exposure. This is because pollution exposures can combine, increasing the harm, and also can have a synergistic effect with other health stressors in people’s daily lives.⁵ As scientists have explained, these communities often have higher levels of biological susceptibility (such as due to higher rates of pre-existing health conditions like obesity, cardiovascular disease, diabetes, and certain kinds of cancer). They also have increased social vulnerability to environmental hazards because of their greater likelihood and duration of exposure to pollutants and other kinds of stress.⁶

These communities and populations often have less access to quality, affordable health care which only exacerbates the impacts of environmental hazards. Health problems in many communities are closely associated with both social and environmental factors – including adverse perinatal outcomes like prematurity and low birth-weight, cardiovascular disease, and self-rated health.⁷ Socioeconomic disparities thus exacerbate the effects of environmental hazards.

Current risk assessment practices contribute to environmental inequities and increase disparities.

Although EPA has made strides in reducing pollution and the health threats caused by environmental contaminants, these benefits have not been equally distributed. Multiple research studies and EPA investigations have found increased pollution and contaminant burden in lower

³ Cal. EPA, OEHHA, “Cumulative Impacts,” *supra* (citing numerous research studies showing that exposure to pollution-emitting facilities, hazardous waste facilities and disposal, toxic releases, non-attainment air areas, high motor vehicle air pollution areas, and other types of pollution is more likely to be concentrated in communities with higher minority and lower income populations).

⁴ Rachel Morello-Frosch, Zuk, Jerrett, Shamasunder & Kyle, *Understanding The Cumulative Impacts of Inequalities in Environmental Health: Implications for Policy*, 30(5) Health Affairs 879, 881 nn.24-26 (2011) (citing sources).

⁵ See, e.g., *id.* at 879 (citing Clougherty J. & Kubzansky L., *A Framework for Examining Social Stress and Susceptibility in Air Pollution and Respiratory Health*, 117(9) Environ. Health Perspect. 1351 (2009)).

⁶ *Id.* at 881-82.

⁷ *Id.* at 880.

income communities and communities of color that contribute to poor health outcomes. Risk assessments conducted by EPA as part of establishing regulations and implementing policies help determine the contaminant burden in these communities. EPA's failure to incorporate the current science on the impacts of cumulative exposures and population vulnerabilities into these risk assessments contributes to potentially unhealthy exposures.⁸

For example, EPA's own environmental justice analysis has found that sources of toxic air pollution listed under Clean Air Act ("CAA") section 112, such as lead smelters, chromium electroplaters, and many others, frequently create disproportionate health risks for minority and lower income communities.⁹ This problem is exacerbated by the fact that multiple sources of pollution are likely to be more concentrated in minority and lower income communities, creating a serious environmental justice problem.¹⁰ Currently, risk assessments performed under section 112 fail to adequately incorporate aggregate exposures from multiple sources, cumulative risk from multiple pollutants, exposure from multiple pathways, and underlying vulnerability due to individual or community factors.¹¹

Additionally, when researchers evaluated the National Ambient Air Quality Standard (NAAQS) for lead they found that the standard was not sufficient to protect vulnerable populations from significant cognitive detriment – measured as the loss of more than 2 IQ points (*i.e.*, the metric EPA itself chose to use in the Lead NAAQS). These researchers found a consistent pattern among lead toxicity studies indicating that the degree to which lead exposure resulted in cognitive detriment (measured by the concentration-response function) was greater among populations with a lower socio-economic status (SES) than the general population. Specifically, the median estimate of the concentration response function among general population studies was -1.75 points/ $\mu\text{g}/\text{dL}$ blood lead as compared to that for the low SES studies of -2.40 points/ $\mu\text{g}/\text{dL}$ blood lead.¹² This increased susceptibility was not incorporated into the risk assessment that was used to derive the NAAQS and therefore did not provide adequate protections for this population.

⁸ *Id.*

⁹ See, e.g., EC/R Memo, Prepared for EPA, "Risk and Technology Review - Final Analysis of Socio-Economic Factors for Populations Living Near Secondary Lead Smelting Facilities" at 9-10 (Dec. 2011), EPA-HQ-OAR-2011-0344-016; EC/R Memo, Prepared for EPA, "Risk and Technology Review - Analysis of Socio-Economic Factors for Populations Living Near Hard Chromium Electroplating Facilities" at 7-8, EPA-HQ-OAR-2010-0600-0601.

¹⁰ See, e.g., Cal. EPA, OEHHA, "Cumulative Impacts," *supra* (citing numerous research studies showing that exposure to pollution-emitting facilities, hazardous waste facilities and disposal, toxic releases, non-attainment air areas, high motor vehicle air pollution areas, and other types of pollution is more likely to be concentrated in communities with higher minority and lower income populations).

¹¹ See, e.g., EPA, OAQPS, "Residual Risk Assessment for the Secondary Lead Smelting Source Category" (Dec. 2011), EPA-HQ-OAR-2011-0344-0160; "Draft Residual Risk Assessment for the Mineral Wool Production and Wool Fiberglass Manufacturing Source Categories" at 23 tbl. 3.1-1; *id.* at 30 tbl. 4.1-1 (Sept. 2011), EPA-HQ-OAR-2010-1042-0086; "Residual Risk Assessment for the Chromic Acid Anodizing, Decorative Chromium Electroplating, and Hard Chromium Electroplating Source Categories" (Aug. 2012), EPA-HQ-OAR-2010-0600-0630; "Draft Residual Risk Assessment for 7 Chemical Source Categories" (Nov. 2011), EPA-HQ-OAR-2011-0435-0018; "Draft Residual Risk Assessment for the Ferroalloys Source Category" at 27-31 (Oct. 2011) EPA-HQ-OAR-2010-0895-0046; "Residual Risk Assessment for the Oil and Gas Production and Natural Gas Transmission and Storage Source Categories," (Apr. 2012) EPA-HQ-OAR-2010-0505-4558.

¹² Ramya Chari, Burke, White & Fox, *Integrating Susceptibility into Environmental Policy: An Analysis of the National Ambient Air Quality Standard for Lead*, 9 Int. J. Environ. Res. Public Health 1077, 1084 (2012).

In order to address current inequities in the burden of environmental pollution, EPA must update its risk assessment policies and guidelines which, as discussed later in these comments, fail to provide health protections by ignoring the cumulative impact of multiple sources and types of pollution, routes of exposure, and individual and population vulnerabilities.

Experts have identified addressing cumulative impacts as essential to ensuring environmental justice and reducing disparities.

EPA has recognized the scientific evidence on socioeconomic stressors and increased vulnerability in guidance documents.¹³ EPA also has made an important commitment to finally implement the 1994 Executive Order 12898, issued by President Clinton, without delay, in the form of Plan EJ 2014.¹⁴ In response to public comments on Plan EJ 2014, EPA made the point that cumulative risk assessment should include consideration of environmental justice, stating that “the RAF [Risk Assessment Forum] believes the application of CRA [Cumulative Risk Assessment] to issues of environmental justice is supportable, both now, and increasingly in the near future.”¹⁵ In Plan EJ 2014, EPA has recognized the need for a pragmatic approach which uses the best science available now to ensure that EPA finally starts to address the real-world impacts that communities face.¹⁶

The agency also has recognized that it has a broad range of legal requirements and tools to address and provide environmental justice.¹⁷ To fulfill its commitment on environmental justice, EPA must address and reduce the cumulative impacts and risks caused by environmental hazards in overburdened communities, which are often communities of color and lower income communities.

EPA has acknowledged the importance of addressing multiple source exposures, by stating that it “understands the potential importance of considering an individual’s total exposure to HAP [hazardous air pollutants] in addition to considering exposure to HAP emissions from the source category and facility,” and that it is “interested in placing source category and facilitywide HAP risks in the context of total HAP risks from all sources combined in the vicinity of each source.”¹⁸ And, EPA has also recognized this need in its most recent risk report.¹⁹ Yet, so far EPA has failed to follow through on this in air toxics and other

¹³ See, e.g., Draft Technical Guidance on EJ in Rulemaking at 14-18 (2013).

¹⁴ Plan EJ 2014, <http://www.epa.gov/compliance/ej/plan-ej/index.html>; Exec. Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” 59 Fed. Reg. 7629 (Feb. 16, 1994), http://www.epa.gov/compliance/ej/resources/policy/exec_order_12898.pdf.

¹⁵ U.S. EPA, “Response to Public Comments on Plan EJ 2014 Strategy and Implementation Plans” at 15 (Public Comments Received: July 2010-Apr. 2011).

¹⁶ *Id.* at 15-16 (explaining that information available should be used along with new science that “constantly expands the range of what is possible”).

¹⁷ See, e.g., EPA, Ofc. of Gen. Counsel, Plan EJ 2014 Legal Tools (Dec. 2011), <http://www.epa.gov/compliance/ej/resources/policy/plan-ej-2014/ej-legal-tools.pdf>.

¹⁸ NESHAP: Mineral Wool Production and Wool Fiberglass Manufacturing, 76 Fed. Reg. 72,770, 72,786 (Nov. 25, 2011).

¹⁹ U.S. EPA, “Concepts, Methods and Data Sources for Cumulative Health Risk Assessment of Multiple Chemicals, Exposures and Effects: A Resource Document,” at xxxii (2007), EPA/600/R-06/013F (defining a cumulative risk

rulemakings; although it has looked at a source category as a whole, and it has looked at collocated sources' total "facility-wide risk," it has not assessed total exposure (such as due to exposure to other known toxic sources across the street or within the area where residents are exposed to the source category), and EPA has not used the facility-wide risk number in setting standards.²⁰ That is why it needs sound guidance from EPA scientists to do so.

To provide equal protection from pollution to all Americans, EPA must recognize and address the disparities in exposure, and the greater harm it can cause, especially due to early-life exposure. EPA must incorporate all aspects of increased exposure and vulnerability into its approach to assess cumulative impacts.²¹

As summarized by Morello-Frosch and colleagues: health disparities, biological and physiological susceptibility, and social vulnerability all combine with environmental exposure inequalities to make the cumulative impact of environmental hazards greater for communities of color and lower income communities.²² To assess cumulative impacts and gain the information it needs to protect public health in decision-making, EPA must integrate all four elements into its assessment framework, including social conditions and responses.²³

Addressing the cumulative impact of these combined environmental and social stressors is essential for EPA to finally follow the 2009 recommendations of the National Research Council, National Academy of Sciences ("NAS").²⁴ As the NAS has recommended, "EPA should compile relevant data related to socioeconomic status (SES), which may serve as a proxy for numerous individual risk factors . . . and may be a more direct measure of vulnerability than could reasonably be assembled by looking at all relevant individual risk factors."²⁵ The Council has also advised EPA to address and evaluate "background exposures and vulnerability factors," and use "epidemiologic and toxicologic evidence" in its risk assessments.²⁶

Finally, EPA's Science Advisory Board has advised EPA of the importance to finally assess the full cumulative impacts. The SAB stated that "RTR assessments will be most useful to decision makers and communities if results are presented in the broader context of aggregate

assessment as including "aggregate exposures by multiple pathways, media and routes over time, plus combined exposures to multiple contaminants from multiple sources").

²⁰ See examples cited, *supra* note 11.

²¹ Peter L. deFur, Evans, Cohen Hubal, Kyle, Morello-Frosch & Williams, *Vulnerability as a Function of Individual and Group Resources in Cumulative Risk Assessment*, 115(5) Environ. Health Perspect. 817 (2007).

²² Morello-Frosch *et al.*, *supra* & Appendix.

²³ *Id.* at 883.

²⁴ National Research Council, National Academy of Sciences, "Science and Decisions: Advancing Risk Assessment" (2009) ("NAS 2009"), http://www.nap.edu/catalog.php?record_id=12209.

²⁵ NAS 2009 at 226 (citing O'Neill *et al.*, *Health, Wealth, and Air Pollution: Advancing Theory and Methods*, 111(16) Environ. Health Perspect. 1861 (2003)).

²⁶ NAS 2009 at 221-23 (discussing Menzie *et al.* 2007 model); *id.* at 230 (discussing the role of epidemiology and surveillance data).

and cumulative risks, including background concentrations and contributions from other sources in the area.”²⁷

In order to fulfill EPA’s and the Executive Branch’s commitment to environmental justice, EPA must:

- (1) Update guidelines for conducting risk-based assessments to incorporate mechanisms for accounting for the cumulative impacts of multiple exposures and underlying vulnerabilities;

and

- (2) Move beyond current risk frameworks and incorporate alternate methods to assess health threats from environmental exposures in a way that will better capture the impacts faced by overburdened communities and support policies to reduce them.

²⁷ Sci. Adv. Bd., Review of EPA’s draft entitled, “Risk and Technology Review (RTR) Risk Assessment Methodologies: For Review by the EPA’s Science Advisory Board – Case Studies – MACT I Petroleum Refining Sources and Portland Cement Manufacturing,” at ii, 10 (May 2010), EPA-SAB-10-007 (“SAB May 2010”).

II. WITHIN THE EXISTING RISK FRAMEWORKS EPA MUST USE THE BEST AVAILABLE SCIENCE TO ADDRESS THE FULL PICTURE OF HARM THAT COMMUNITIES EXPERIENCE FROM POLLUTION.

EPA is currently relying on outdated risk assessment methods that fail to incorporate the current science on the cumulative impacts of environmental exposures and community and individual vulnerability. As part of the development of guidelines for cumulative impacts, EPA must provide direction to those programs relying on outdated methods and develop new methods for conducting these risk assessments so as to provide public health protections.

The National Research Council, National Academy of Sciences has recommended that EPA perform a full “cumulative risk assessment.”²⁸ We urge EPA to fully consider and incorporate the recommendations and information from the NAS, other independent scientists, and the example models from California EPA’s Office of Environmental Health Hazard Assessment (“OEHHA”), in order to take immediate steps toward reforming existing practices to better assess cumulative risk and impacts as part of the agency’s responsibilities.

As an important example, EPA is currently deciding whether the second generation of the Clean Air Act’s air toxics program will bring meaningful protection to communities nationwide. In a set of community health air toxics rulemakings or “CHAT” rules (also known as residual risk standards, under section 112(f) of the Act, 42 U.S.C. § 7412(f)(2)), EPA must set emission limits that protect the people most-exposed to major industrial sources’ pollution. EPA must prevent unacceptable health risk and provide an ample margin of safety to protect public health.

EPA can and must vastly improve its approach by updating existing risk assessment guidelines to incorporate the science of cumulative impacts. This should be done by implementing the following:

- ☐ Account for individual-level vulnerability in risk assessments by better incorporating the vulnerability of children, early-life exposures, and the developing fetus into risk assessment methods:
 - ☐ Account for increased susceptibility by using age-dependent adjustment factors for all carcinogens, not just known mutagens.
 - ☐ Pre-natal susceptibility: Account for increased susceptibility by using a pre-natal adjustment factor for all carcinogens of at least 10X.
 - ☐ For chronic non-cancer risk, consult and apply child-specific reference

²⁸ See e.g., NAS 2009 at 224 (describing this as “evaluating an array of stressors (chemical and nonchemical) to characterize—quantitatively to the extent possible—human health or ecologic effects, taking account of such factors as vulnerability and background exposures”); see also Cal. EPA, OEHHA, “Cumulative Impacts,” *supra*, at 3 (2010) (OEHHA has addressed this issue in terms of a “cumulative impacts” assessment which considers “the exposures, public health or environmental effects from the combined emissions and discharges, in a geographic area, including environmental pollution from all sources, whether single or multi-media, routinely, accidentally, or otherwise released. Impacts will take into account sensitive populations and socio-economic factors, where applicable and to the extent data are available”).

values (such as those created by California EPA scientists), where available.

- ☐ If child-specific reference values are unavailable, consult science on early exposure impacts, and use an additional default factor of at least 10X.
- ☐ Account for community level vulnerability by including factors to account for increased vulnerability based on demographic differences, as part of the risk assessment. EPA also must fully integrate the findings of its environmental justice analyses into its risk assessments and rulemakings, and set stronger pollution limits to provide environmental justice.
- ☐ Assess the cumulative burden of exposures to multiple pollutants and sources via multiple pathways:
 - ☐ Assess and aggregate exposure from multiple pathways – including by adding inhalation and non-inhalation-based cancer risks.
 - ☐ Include the interaction of multiple pollutants.
 - ☐ Account for exposure to multiple sources. Until EPA has a specific mechanism for estimating total exposures, a default or uncertainty factor of at least 10X should be used to provide overburdened communities with the protection they need now.
- ☐ Account for cumulative impacts of multiple exposures and vulnerabilities by shifting the level of risk which triggers policy action.
 - ☐ Reduce EPA’s benchmark of what it considers acceptable lifetime cancer risk instead of relying on the outdated upper limit of 100-in-a-million.
 - ☐ Use a Margin of Exposure (MOE) framework for non-cancer impacts and adjust the target MOE according to known vulnerability factors.
- ☐ In the face of increasing evidence calling into question the assumption of a safe or acceptable level of exposure, EPA should also consider reforming risk assessments to support reducing risks to the lowest possible level, to protect public health, rather than suggesting that there is a safe or acceptable level.

Please see Appendix A for more detail on each of the above-listed issues. Although these have come up in the context of EPA’s rulemakings on air toxics standards, many of these represent cross-cutting problems with EPA’s risk assessment framework that the agency should address broadly to finally follow current science.

Community Involvement

As a notable, final recommendation on cumulative risk, the NAS also urged EPA to expand “stakeholder involvement” and community outreach in the planning, scoping, and problem formulation of risk assessments, and to better explain and provide information to

affected communities on the considerations and conclusions of risk assessments.²⁹ EPA's failure to publicize the current notice or contact affected communities to solicit input is a case in point. This is an extremely important issue for communities overburdened by pollution and we urge EPA to engage with communities on this issue as the agency moves toward issuing guidance.

As a general matter, EPA must involve community stakeholders in strengthening its risk assessment approach overall. It is especially necessary for EPA to communicate with and solicit input from local organizations and citizens in communities that will be affected by a given risk assessment. The most-exposed and most-affected people often have helpful information to offer EPA. Importantly, for EPA to fulfill its commitment to environmental justice it also must listen to and engage with affected communities. This means not just publishing something in the Federal Register and on the Internet. It requires EPA to find community members, leaders, and representatives. It requires EPA to make phone calls, to discuss the substantive issues in person and by phone, in a way that allows communities to provide meaningful input. It may require community outreach outside of EPA's usual approach, including translation into the relevant spoken languages, and events to reach affected people in their own communities, after hours and on weekends. As part of its work, EPA should set and achieve goals for both disseminating information, and soliciting broad-based community participation from diverse communities around the United States.

The very short comment deadline on EPA's notice on cumulative risk assessment and the lack of direct outreach from EPA mean that the agency, thus far, has not provided affected communities with a meaningful opportunity to engage in this process. The lack of advance notice and short comment period also have made it difficult for communities to engage with scientists in the academic field. Commenters urge EPA to integrate community involvement and perspectives into this process, and ensure that when draft guidance is proposed that there is sufficient public notice and time for comment.

²⁹ NAS 2009 at 234-35.

III. EPA MUST MOVE BEYOND CURRENT RISK FRAMEWORKS AND INCORPORATE ALTERNATE METHODS TO ASSESS HEALTH THREATS FROM ENVIRONMENTAL EXPOSURES THAT BETTER CAPTURE AND REDUCE THE IMPACTS FACED BY OVERBURDENED COMMUNITIES.

There is strong evidence that cumulative exposures to environmental contaminants and community and/or individual level susceptibilities increase health threats in communities overburdened by pollution.

These findings show a need both to reform existing risk frameworks in key ways, and to explore alternate mechanisms to assess and reduce the environmental burden in these communities.³⁰ Scientists have outlined new approaches that focus on health impacts and apply available data and research from the areas of epidemiology, exposure assessment, and environmental justice.³¹ EPA's guidance should incorporate these new integrated approaches to address cumulative impacts and identify key ways to implement them such that they inform policy decisions and help reduce contaminant burdens which are threatening community health.

In particular, scientists have called for the incorporation of new "targeted place-based" approaches that identify and assess the cumulative burden of environmental stressors and vulnerabilities in communities, so that decision-makers can provide much-needed regulatory and other actions to better protect public health.³² Unlike EPA's current risk assessment approach which often contains an implicit assumption of a threshold that can assure safety,³³ this type of approach is geared toward identifying and targeting actions to reduce the environmental threats in communities. EPA can and should use this type of model as a means to target interventions that can decrease the environmental hazards in the most exposed and most vulnerable communities to the greatest extent possible. For communities overburdened by toxic air and other kinds of pollution, a cumulative impact analysis will allow EPA, state regulators, and concerned citizens to have information they need to make decisions about how much to prevent and control current and potential new pollution and other environmental hazards.

Cumulative Impact Assessment Methods

Researchers and agencies have used geospatial analyses of available data on environmental threats and community characteristics to develop tools which can evaluate the relative distribution of contaminant burden. These tools, which can consist of an index or a screening assessment, combine environmental exposures or threats with both individual and community measures of vulnerability to come up with a combined score for a geographical unit

³⁰ Morello-Frosch *et al.*, *supra*; James L. Sadd, Pastor, Morello-Frosch, Scoggins & Jesdale, *Playing It Safe: Assessing Cumulative Impact and Social Vulnerability through an Environmental Justice Screening Method in the South Coast Air Basin, California*, 8 Int. J. Environ. Res. Public Health 1441 (2011); Jason Su, Rachel Morello-Frosch, Jesdale, Kyle, Shamasunder & Jerrett, *An Index for Assessing Demographic Inequalities in Cumulative Environmental Hazards with Application to Los Angeles, California*, 43(20) Environ. Sci. Tech. 7626 (2009).

³¹ Morello-Frosch *et al.*, *supra* note 5, at 880.

³² *Id.* at 883.

³³ *See, e.g.*, examples cited, *supra* note 11.

which provides a relative measure of the cumulative impacts compared to other areas included in the analysis.

EPA should apply and adapt a place-based targeting approach, shown by these examples, to assess and score affected communities with multiple listed sources on a cumulative impacts spectrum that includes environmental exposures, hazards, and vulnerability at the individual and community levels. US EPA should then use the cumulative impacts spectrum in all areas of agency decision-making to protect public health.

The California EPA cumulative impacts protocol provides a valuable model for how US EPA can do this.³⁴ California EPA has performed a targeted, place-based scoring analysis for California communities that could be applied nationwide. For example, the California EPA has outlined the following ways in which the information from the cumulative impacts tool could be used:

Identification of communities with the highest cumulative impact scores would allow Cal/EPA programs to target them for additional environmental monitoring, increased pollution enforcement activities, or to prioritize them for available incentive programs that reduce emissions or provide clean-up funds. When intra-agency efforts are needed to address multi-media impacts, the application of such a screening tool could assist in identifying impacted areas. This information could be used to target enforcement programs to reduce violations of existing laws and regulations and deter future violations in highly impacted communities. Screening for highly impacted communities could be used to prioritize outreach efforts to communities most in need of financial assistance. This assistance could be used to increase public participation opportunities and other capacity-building efforts.³⁵

As additional examples, EPA should consult:

- (1) Jason Su, Rachel Morello-Frosch, *et al.*, An Index for Assessing Demographic Inequalities in *Cumulative Environmental Hazards with Application to Los Angeles, California*, 43(20) Environ. Sci. Tech. 7626 (2009), <http://pubs.acs.org/doi/abs/10.1021/es901041p>.

In this study, researchers offer “a method for creating an index capable of summarizing racial-ethnic and socioeconomic inequalities from the impact of cumulative environmental hazards,” and apply this to Los Angeles County. *Id.* The paper focuses on air pollution, including: ambient concentrations of particulate matter, nitrogen dioxide, and estimates of cancer risk associated with modeled estimates for diesel particulate matter. The index proposed “provides a generalized framework that incorporates environmental hazards and socioeconomic

³⁴ Cal. EPA, OEHHA, California Communities Environmental Health Screening Tool (CalEnviroScreen 1.0) (April 2013), <http://oehha.ca.gov/ej/ces042313.html>.

³⁵ George Alexeef, Faust, Meehan August, Milanese, Randles, Zeise & Denton, *A Screening Method for Assessing Cumulative Impacts*, 9 Int. J. Environ. Res. Public Health 648 (2012).

characteristics to assess inequalities in cumulative environmental risks,” and as such provides a model for how U.S. EPA should consider and address these same issues. *Id.*

- (2) James L. Sadd *et al.*, *Playing It Safe: Assessing Cumulative Impact and Social Vulnerability through an Environmental Justice Screening Method in the South Coast Air Basin, California*, 8 Int. J. Environ. Res. Public Health 1441 (2011); doi:10.3390/ijerph8051441.

In this study, researchers proposed an “Environmental Justice Screening Method (EJSM) as a relatively simple, flexible and transparent way to examine the relative rank of cumulative impacts and social vulnerability within metropolitan regions and determine environmental justice areas based on more than simply the demographics of income and race.” They applied 23 indicator metrics, in three main categories: (1) hazard proximity and land use; (2) air pollution exposure and estimated health risk; and (3) social and health vulnerability.

EPA should investigate these and other similar work happening in various states, including New Jersey.

Health Impact Assessment

Health Impact Assessment (HIA) is another tool which has the capacity to combine multiple measures describing diverse hazards with measures of community vulnerability and individual susceptibility. HIA is an approach to assess the human health implications of a proposed plan, project or policy which takes into consideration the existing environmental conditions and community characteristics that can influence health outcomes. As such, the methods developed in the service of conducting HIAs offer tools that can integrate multiple types of data including both quantitative and qualitative.³⁶ EPA should evaluate where the strategies and approaches of Health Impact Assessments could be incorporated into or added to existing environmental assessments to better capture cumulative threats to public health.

Strong Need for EPA to Address Real-World Cumulative Impacts

The following list provides examples of key EPA programs where affected communities greatly need EPA to gather health impact and demographic information and use an approach that integrates aggregate exposures with underlying vulnerabilities to strengthen policy decision-making.

- 1. It is urgent for EPA to address cumulative impacts in setting air, pesticides, hazardous waste, and other pollution limits in rulemakings.***

EPA should use a scoring approach to guide its rulemakings on a number of important issues that are urgent for public health. EPA’s air toxics rules are an area where EPA risk assessment practices have been failing to follow the current science. In addition, to making the

³⁶ Morello-Frosch *et al.*, *supra*.

essential updates within EPA's current risk assessment approach (as discussed further in Appendix A), EPA should also use the cutting-edge community impact scoring method in at least the following ways.

- After creating the scored spectrum of affected communities nationwide, EPA should incorporate this information into the standard-setting process under various statutes. This would help ensure protections for communities impacted by multiple pollutants and sources that are currently controlled under separate regulations and rules by identifying those areas where tighter pollution controls may be necessary to protect public health. For example, when EPA sets source-specific standards for each source category as required by Clean Air Act section 112, it should also look at other sources and standards to assess their combined community impact. EPA can then set source-specific standards that target that source's contribution in the broader context of its cumulative impact on public health. EPA should engage in a similar approach for other types of pollution that can impact communities, such as pesticides, household chemicals, or hazardous waste sites, under its relevant statutory authorities (e.g., TSCA, FQPA, CERCLA, RCRA, CWA).³⁷
- Under the Clean Air Act, and other statutes where EPA is setting standards for a specific source category or type of pollution that emits into a community with multiple sources of pollution, EPA should recognize that the impact of that source's pollution is larger and more harmful because it is emitting in combination with other sources. This is further discussed below in connection with the air toxics standards as an example. (See Appendix A).

2. Permit and Siting Decisions.

EPA must provide protection for communities from the cumulative impacts of all sources located there. When there is a proposal for a new or modified permit or siting change in a community that already faces combined harm from other kinds of pollution, EPA must take that into account. EPA cannot pretend that each new proposed permit or siting decision is occurring in a vacuum.

For example, permitting officials sometimes try to use significant impact levels to obviate the need for multi-source modeling.³⁸ Similarly, they may try to allow a permit to move forward largely on the rationale that a national ambient air quality standard for a particular criteria pollutant has not been exceeded in the air shed as a whole. These types of permitting approaches do not consider cumulative impacts, including due to vulnerabilities that may exist in a particular community, effectively allowing a permit to go forward without the effective look at local impacts necessary to protect public health.

³⁷ See EPA, Ofc. of Gen. Counsel, Plan EJ 2014 Legal Tools (Dec. 2011), <http://www.epa.gov/compliance/ej/resources/policy/plan-ej-2014/ej-legal-tools.pdf>.

³⁸ But see *Sierra Club v. EPA*, 705 F.3d 458 (D.C. Cir. 2013) (vacating and remanding EPA rules on significant impact levels and significant monitoring concentrations for PM_{2.5}).

Instead, EPA must ensure that the agency and other permitting agencies, including the states, recognize the full impact of pollution that already exists in a community that has other sources of pollution. Cumulative impacts already faced by a community may merit denial of a permit or the requirement to install additional pollution controls, additional monitors, and additional compliance provisions in a permit, such as back-up power, community notification, and corrective steps, like immediate shut-down, that must be taken whenever there is an accident or upset.

3. Enforcement and Monitoring Decisions.

Using a scoring mechanism to assess where a community stands on the spectrum of exposure and vulnerability would be the most efficient way for EPA to target its enforcement and monitoring resources to communities that have the greatest need, based on cumulative impacts and risk from pollution.

EPA regularly makes decisions about how to allocate resources for enforcement and what cases to prosecute. EPA should target its enforcement actions in those communities that are the most overburdened and face the greatest risk from pollution.

Communities need more state-of-the art fenceline monitoring tools and systems set up by EPA near places where people live and children go to school in the midst of pollution and polluting sources.³⁹ Communities affected by pollution have a right to know what is in their air, water, and soil. Where EPA is unable to or does not bring enforcement cases, affected communities have a particular need for up-to-date information on air emissions, water pollution, and soil and hazardous waste testing. This allows community members and organizations to make decisions locally to try to protect their own health, and to consider bringing citizen enforcement suits, where possible.

Community Spotlight

These comments include stories that provide a snapshot of the experience of local communities around the country that many EPA staff and panel members may never have visited, including from Houston, Midlothian, and Port Arthur, TX, Los Angeles County, CA, Delaware City, DE, Southeast Louisiana, Detroit, MI, Camden, NJ, Washington, D.C., Memphis, TN, Mebane, NC, and the Navajo Nation. The following are excerpts from Appendix E.

Northern Delaware

Amy Roe, Conservation Chair, Sierra Club, Delaware Chapter

In northern Delaware, where I live, the air is unsafe to breathe. Ozone action days are commonplace and toxic releases from the numerous chemical plants and the nearby oil

³⁹ See, e.g., USA Today, *The Smokestack Effect: Toxic Air and America's Schools*, <http://content.usatoday.com/news/nation/environment/smokestack/index> (providing information on schools most exposed to hazardous air pollution around the U.S.).

refinery occur regularly. The groundwater in eastern New Castle County has been contaminated, and just this month a drinking water well near the town of New Castle was closed because of 1,4-dioxane from a nearby Superfund site. The fish in our rivers and streams are unsafe to eat and most of the water bodies in New Castle County have a “no consumption” advisory. We are forced to endure the legacy pollution from past manufacturing and hazardous waste disposal, while new pollutants are added to our environment from existing facilities.

The response that I have received from state regulators for air pollution concerns that made me ill and nauseated during the restart of the Delaware City Refinery was that the “air” I am breathing is just “air.” The air that I am breathing is not just air! It is filled with fine particles and toxic vapors from many industrial facilities, including but not limited to the Delaware City Refinery, Formosa Plastics, FMC Biopolymer, AI Dupont Sulfuric Acid Regeneration Plant, Kuehne Chemical Company, DuPont Edgemoor and the DuPont Experimental Station.

This month I learned that my city has been negotiating to build a 248 MW power plant at the edge of my neighborhood, just a few blocks away, and a stone’s throw from the playground where I played on the swings as a child. Past and present threats to public health are being added to with plans for future development. The regulatory oversight of air and water pollution needs dramatic improvement. Science-based standards for cumulative risk assessment would result in the dramatic improvement of our lives and health. It would dramatically improve the way that pollution standards are assessed to consider the health impacts to our communities as part of the regulatory process.

Houston Ship Channel, Houston, TX:

Houston’s Ship Channel hosts one of the largest concentrations of petrochemical facilities in the world, which in addition to the area’s refineries, other chemical facilities, and constant fleets of shipping barges and diesel trucks, contaminates regional air quality. The negative health impacts on the community, which is overwhelmingly Latino, are undeniable. A study of nearly 300 residents by Air Alliance Houston in partnership with Healthy Port Communities Commission conducted between March and April 2013 found that communities near the Port of Houston experience higher than average rates of allergies, cancer, and respiratory illnesses. In comparison to state statistical averages, residents near the Port of Houston reported rates of asthma twice as high in adults and children, and reported rates of cancer ten times as high. Eighty-six percent of respondents expressed concern about pollution from local refineries in the survey, and 89% of respondents expressed concern about the effects of pollution on their health. Problematically, 54% of respondents did not have health insurance and nearly half of residents have an unemployed household member. The combination of high pollution exposure and lower access to health care in this community shows the need for EPA to look at and reduce the cumulative impacts people here face.

Detroit, Michigan:

Michigan's most polluted zip code is 48217, located in the southwest of Detroit.⁴⁰ Wedged between a major highway and polluting factories, this community has acutely felt the burden of living so close to industrial plants. The residents experience acrid odors, masses of floating dark particles, and thick layers of metallic dust that settle over the area. The community, which is roughly 85% African American, has experienced deteriorating health due to its proximity to multiple industrial sites.⁴¹ Asthma, sarcoidosis, and multiple types of cancer, including leukemia and brain cancer, have affected many local families. Despite all this, the city continues to allow the industrial sector to expand, further elevating the level of pollution. In the past decade alone, air permits for an asphalt plant have been approved, the nearby water and sewer plant have expanded, and a composting facility was erected. In 2007, the community opposed the \$2-billion project to expand the Marathon Refinery and lost. The State asserts that each industrial plant complies with the emissions limits, but the State fails to take into account the cumulative effects of the multiple facilities that are spewing out toxins into the air. Although Detroit has seven state air monitors, none are located in this neighborhood, spurring the local residents to initiate their own sampling. Their results showed high levels of lead and methyl ethyl ketone, a toxin that can irritate the lungs and affect the nervous system, in the air. The cumulative effects of the nearby facilities must be considered for communities like Detroit to account for the level of harm associated with close proximity to these industrial sites and, ultimately, to finally bring relief to communities inundated with pollution.

Cancer Alley, Louisiana:

The 80 mile stretch of Mississippi River between Baton Rouge and New Orleans, once revered by Mark Twain, is now dubbed "Cancer Alley."⁴² This Louisiana area has the highest concentration of manufacturers, users, and disposers of toxic chemicals in the nation.⁴³ Hundreds of industrial plants are located near low-income communities of color and have been spewing out dangerous air toxins for decades.⁴⁴ The residents experience high rates of asthma, cardiovascular disease, diabetes, infant mortality, and cancer, including rare childhood cancers.⁴⁵

⁴⁰ Tina Lam, *48217: Life in Michigan's Most Polluted Zip Code*, DETROIT FREE PRESS (June 20, 2010), <http://www.freep.com/article/20100620/NEWS05/6200555/48217-Life-Michigan-s-most-polluted-ZIP-code>.

⁴¹ Andrea Newell, *Environmental Justice in Detroit: Hope Arises Amid Toxic Communities*, TRIPLE PUNDIT (Jun. 10, 2013), <http://www.triplepundit.com/2013/06/detroit-environmental-justice/>.

⁴² *Cancer Alley, Louisiana*, H2G2, Jul. 4, 2002, http://h2g2.com/approved_entry/A760420 (last updated Dec. 11, 2005).

⁴³ Heidi E. Kluber, "Cancer Alley and Infant Mortality: Is There a Correlation?" (Dec. 2011) (unpublished M.P.A.F.F. thesis, University of Texas) (on file with University of Texas Libraries), available at <http://repositories.lib.utexas.edu/bitstream/handle/2152/ETD-UT-2011-12-4417/KLUBER-MASTERS-REPORT.pdf?sequence=1>.

⁴⁴ H2G2, *supra*.

⁴⁵ *Cancer Alley and Infant Mortality, supra*, at 1.

The reality faced by these and other communities requires EPA's urgent attention to current science. Many additional examples are included in the attached Appendix E, and we urge EPA to consider each of these community stories as part of this review and its development of guidance.

CONCLUSION

We encourage EPA to follow the best available science on cumulative impacts and risk, and to issue strong new guidance on the issues these comments discuss, without delay. Please contact us if we can provide any additional information that would be helpful. Please also let us know what EPA's planned timeframe and next steps are to issue draft guidance, when possible.

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APPENDIX A: SPECIFIC RECOMMENDATIONS TO REFORM EXISTING RISK ASSESSMENT GUIDELINES

I. ACCOUNT FOR INDIVIDUAL-LEVEL VULNERABILITY IN RISK ASSESSMENTS BY BETTER INCORPORATING THE VULNERABILITY OF CHILDREN, EARLY-LIFE EXPOSURES, AND THE DEVELOPING FETUS INTO RISK ASSESSMENT METHODS.

The National Academy of Sciences (“NAS”) reports and other new scientific and policy developments direct that EPA must better account for vulnerability and variability. *See* Appendix B-C. In particular, the science is now clear that “children are not ‘little adults’” when it comes to toxic chemicals.⁴⁶ They are both susceptible to greater harm from exposure to toxic chemicals, because they are still growing and developing, *and* they are exposed to such chemicals at a greater rate than adults because of age-specific behaviors and physiological characteristics. Second, EPA must also better account for other types of human variability because some people exposed to the same amount of a pollutant experience greater health risk due to other factors, such as genetics and baseline health status. Socioeconomic status has been shown to act as a proxy for other types of human variability to chemical risk that EPA has not adequately addressed in its risk assessments.

This section discusses key ways in which EPA must better address both the greater risk to children (including from early-in-life exposure to toxic chemicals), and other important types of human variability. Appendix B and C of this document summarize the significant body of scientific and policy developments on children’s health and environmental justice which illustrates the need for updates to EPA’s risk assessment approach.

A. Children’s Risk and Early-Life Exposures

1. Account for increased early life susceptibility by using age-dependent adjustment factors for all carcinogens.

Most of EPA’s cancer risk assessments do not account for early-life exposure or the greater risk to and susceptibility of children. For cancer risk assessment, EPA should follow the science and account for increased early-life susceptibility by applying age-dependent adjustment factors for *all carcinogens* emitted by a source category.

In past rulemakings, EPA has restricted its application of age-dependent adjustment factors, as discussed in the 2005 *Guidelines and Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens*, to those hazardous air pollutants (“HAPs”) included in EPA’s list of carcinogens that act by a mutagenic mode of action.⁴⁷ It

⁴⁶ National Research Council, “Pesticides in the Diets of Infants and Children” at 3 (1993).

⁴⁷ *See* EPA, “Guidelines for Carcinogen Risk Assessment,” EPA/630/P-03/001F, at 1-19 to 1-20 (Mar. 2005), http://www.epa.gov/raf/publications/pdfs/CANCER_GUIDELINES_FINAL_3-25-05.PDF; EPA, “Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens,” EPA/630/R-03/003F (2005), http://www.epa.gov/raf/publications/pdfs/childrens_supplement_final.pdf; *see, e.g.*, EPA OAQPS, “National

therefore has not applied age-dependent adjustment factors to assess cancer risk from all of the carcinogens emitted by a source category. The NAS recognized this as a “missing” default in EPA’s approach that it should address and account for.⁴⁸

Instead of taking the approach of the 2005 *Guidelines* and *Supplemental Guidance* to limit the use of age-dependent adjustment factors to only some carcinogens, EPA must follow the lead of OEHHA by using age-dependent adjustment factors for all carcinogens.⁴⁹ Because OEHHA has provided robust scientific support for this approach, using these factors to assess cancer risk for all carcinogens would be consistent with the NAS recommendations. As the NAS explained: “EPA needs methods for explicitly considering in cancer risk assessment . . . chemicals that do not meet the threshold of evidence that the agency is considering for judging whether a chemical has a mutagenic mode of action Special attention should be given to hormonally active compounds and genotoxic chemicals that do not meet the threshold of evidence requirements.”⁵⁰

The 2005 Guidelines recognized that updates would be needed if more data become available.⁵¹ Now that such data are available, including from the NAS and OEHHA, the agency must update its approach promptly. EPA should immediately implement the OEHHA age-dependent adjustment factors for all carcinogens, and EPA should also update the 2005 Guidelines to fully reflect current science as described in OEHHA’s 2009 review of the scientific literature on increased susceptibility to carcinogens from early life exposures.⁵²

2. Pre-natal susceptibility: Account for increased susceptibility to pre-natal exposures by using pre-natal adjustment factors for all carcinogens.

Current EPA risk assessment procedures do not take into account increased susceptibility to carcinogens due to pre-natal exposures. The 2005 Supplemental Guidance recognized the scientific findings of increased susceptibility to carcinogens resulting from pre-natal exposure, but did not develop adjustment factors to account for increased cancer risk resulting from pre-natal exposures.⁵³ For example, EPA recognized that “[e]xposures that are of concern extend from conception through adolescence and also include pre-conception exposures of both

Emissions Standards for Hazardous Air Pollutants: Secondary Lead Smelters, Summary of Public Comments and Responses,” at 72-73 (11-14-11), EPA-HQ-OAR-2011-0344-0167.

⁴⁸ NAS 2009 at 196 (Tbl. 6-3 - Examples of “Missing” Defaults in EPA “Default” Dose-Response Assessments).

⁴⁹ Cal. EPA, OEHHA, “Technical Support Document for Cancer Potency Factors: Methodologies for Derivation, Listing of Available Values, and Adjustments to Allow for Early Life Stage Exposures” 3-4, 50-51 (May 2009), http://www.oehha.ca.gov/air/hot_spots/2009/TSDCancerPotency.pdf, and http://oehha.ca.gov/air/hot_spots/tsd052909.html.

⁵⁰ NAS 2009 at 112 (ch. 4) (describing the fact that “*in utero* periods and nonmutagenic chemicals were not covered” by EPA’s 2005 guidelines, as significant omissions).

⁵¹ See EPA, 2005 Supp. Guidance at 21, 31 (“EPA expects to expand this Supplemental Guidance to specifically address modes of action other than mutagenicity when sufficient data are available and analyzed.”).

⁵² Cal. EPA, OEHHA, TSD for Cancer Potency Factors, *supra* note 49.

⁵³ EPA, 2005 Supp. Guidance at 4-5, 14 & tbl. 1a (A-1) (discussing research on human and animal cancer risks from prenatal exposure).

parents.”⁵⁴ The NAS identified the lack of accounting for “*in utero* periods” of exposure as a major omission in EPA’s 2005 cancer guidelines.⁵⁵

OEHHA conducted its own review of the scientific literature to account for pre-natal susceptibility and exposures, which EPA should also consult and use.⁵⁶ It has also developed methods and adjustment factors to account for pre-natal susceptibility and exposures that EPA should use.⁵⁷ In its new risk assessment guidelines, OEHHA includes procedures for exposure assessment during fetal development, which EPA should evaluate.⁵⁸ OEHHA specifically discusses the use of a 10X adjustment factor for cancer risk due to pre-natal to age 2 exposures, and EPA should consider using at least this same factor.⁵⁹

EPA should consult the science OEHHA has used to develop this well-supported factor, and should then use at least a 10X adjustment factor for all carcinogens to assess health risk due to pre-natal exposure.

3. For chronic non-cancer risk, consult and apply child-specific reference values, where available.

Most of EPA’s IRIS toxicity threshold values (reference concentrations and reference doses) used for chronic non-cancer risk assessment do not incorporate the latest science on increased susceptibility of children.⁶⁰ EPA needs to account for early exposure and the greater risk to and susceptibility of children in its risk assessments.

OEHHA child-specific health values include reference doses for cadmium, chlordane, heptachlor, manganese, methoxychlor, nickel, and pentachlorophenol, and a benchmark for lead. A full list, with links to each scientific determination document, is available here: OEHHA, Table of all child-chRDs Finalized to Date (last updated 06/22/09), http://oehha.ca.gov/public_info/public/kids/chrdtable.html. OEHHA has generated these child-specific reference values based on the latest science to take into account children’s greater

⁵⁴ EPA 2005 Guidelines for Carcinogen Risk Assessment, EPA/630/P-03/001F, at 1-16.

⁵⁵ NAS 2009 at 112-13; *see also id.* at 112, 196 (noting that it is a “missing” default that EPA recognizes *in utero* carcinogenic activity, but fails to take account of it or calculate any risk for it as “EPA treats the prenatal period as devoid of sensitivity to carcinogenicity”).

⁵⁶ *See* Cal. EPA, OEHHA, “Technical Support,” *supra* note 49, App. J: “In Utero and Early Life Susceptibility to Carcinogens: The Derivation of Age-at-Exposure Sensitivity Measures” – conducted by OEHHA’s Reproductive and Cancer Hazard Assessment Branch,” http://oehha.ca.gov/air/hot_spots/2009/AppendixJEarly.pdf.

⁵⁷ *Id.* App. J at 7-8 & tbl. 1.

⁵⁸ *See* Cal. EPA, OEHHA, Air Toxics Hot Spots Program Risk Assessment Guidelines, Technical Support Document for Exposure Assessment and Stochastic Analysis, Scientific Panel Review Draft at 1-6 to 1-7 (Feb. 2012) (“OEHHA 2012 Guidelines”).

⁵⁹ *See id.*

⁶⁰ OEHHA has explained why child-specific reference doses or values are needed and provided a list of chemicals. *See, e.g.,* Cal. EPA, OEHHA, “Prioritization of Toxic Air Contaminants - Children’s Environmental Health Protection Act” (Oct. 2001), http://oehha.ca.gov/air/toxic_contaminants/pdf_zip/SB25%20TAC%20prioritization.pdf; Cal. EPA, OEHHA, “Development of Health Criteria for School Site Risk Assessment Pursuant to Health and Safety Code 901(g): Identification of Potential Chemical Contaminants of Concern at California School Sites, Final Report” (June 2002), http://oehha.ca.gov/public_info/public/kids/pdf/ChildHealthreport60702.pdf.

exposure and greater vulnerability.

At least until the IRIS values fully account for the increased risk caused by early-life exposure to an emitted pollutant, EPA should use the OEHHA child-specific reference doses or benchmarks available to assess chronic non-cancer health risk from ingestion for certain pollutants. EPA should also assess such risk from inhalation by using standard methods to translate these values into child-specific reference concentrations to assess inhalation-based risk.

4. Where child-specific reference values are unavailable, consult science on early exposure impacts and use an additional default or uncertainty factor.

The increased susceptibility of children, while known to exist, has not been quantified for many toxic chemicals. Until EPA has child-specific or child-based reference values available for a given pollutant, EPA should apply a default or uncertainty factor of at least 10 to account for increased risk from early-life exposures for non-cancer risk assessments.

This would be consistent with the NAS recommendation on the need for EPA to use default factors to account for greater risk,⁶¹ with the science developed and considered by OEHHA, and with the 10X factor enacted by Congress in the Food Quality Protection Act. Specifically, as the SAB report explained:

California EPA/OEHHA has determined that inhalation dosimetry for children is sufficiently different from adults to warrant a full 10-fold intra-individual pharmacokinetic uncertainty factor (i.e., an extra 3-fold PK uncertainty for children relative to the IRIS method) as a default approach. In setting non-cancer reference exposure levels (RELs), Cal EPA/OEHHA also considers that children may be outliers in terms of chemical susceptibility and on a case-specific basis adds a children's pharmacodynamic factor of 3-fold, making the inhalation risk for children as much as 10 times greater than adults⁶²

In addition, Congress has recognized this science in its unanimous vote on toxics legislation passed in 1996 – the Food Quality Protection Act (“FQPA”) – in which Congress found the need to use and enacted a Ten-fold Margin of Safety, or “10X factor.” Specifically, the Act provides that “an additional tenfold margin of safety for the pesticide chemical residue and other sources of exposure shall be applied for infants and children to take into account potential pre- and post-natal toxicity and completeness of the data with respect to exposure and toxicity to infants and children.”⁶³ Congress’s recognition of the need to use this default factor provides a model that EPA should consider and incorporate into residual risk assessments. It

⁶¹ NAS 2009 at 190-93, 203.

⁶² SAB May 2010 at 34 (May 2010) (citing Cal. EPA, OEHHA, “Technical Support,” *supra*.)

⁶³ 21 U.S.C. § 346a(b)(2)(C) (requiring that, in establishing, modifying, leaving in effect, or revoking a tolerance or exemption for a pesticide chemical residue, “for purposes of clause (ii)(I) an additional tenfold margin of safety for the pesticide chemical residue and other sources of exposure shall be applied” to protect infants and children).

would be appropriate and within EPA's authority under the Clean Air Act section 112(f)(2) to determine that EPA must similarly use a children's ten-fold margin of safety factor here, consistent with the Clean Air Act's "margin of safety" requirement.⁶⁴ In doing so, EPA may rely directly on the science itself, and also on the unanimous guidance from Congress, provided in the FQPA, that the existing evidence of increased harm requires significant action to protect children from toxic exposure.

Further, the child-specific reference doses that OEHHA has created for some pollutants provide support for the use of an additional Ten-fold Margin of Safety Factor. EPA's current reference values are generally one order of magnitude less protective (*i.e.*, larger) than the values that California has recognized as needed to protect children, based on the currently available science and a specific assessment of research relevant to early life exposures, as shown in the chart attached as Appendix D.

B. Account for community level vulnerability by including factors to account for increased vulnerability based on demographic differences, as part of the risk assessment.

The NAS report identified significant flaws in EPA's assessment of individual variability in risk assessments that could result in significant underestimation of risk. In particular, EPA must fully account for the fact that people can be more vulnerable to toxic pollution due to various physiological, societal, demographic, and exposure history differences and can therefore experience greater health risk from the same amount of a toxic chemical exposure.⁶⁵ As the NAS has observed, performing risk assessment that is meaningful for communities that already face a significant amount of pollution and communities concerned about environmental justice "requires an ability to evaluate multiple agents or stressors simultaneously—to consider exposures not in isolation but in the context of other community exposures and risk factors."⁶⁶ Addressing this issue is particularly important for EPA because of the need to consider and address environmental justice as mandated by Exec. Order 12898.

Communities that have minority and lower income populations and communities with higher than average levels of cancer, respiratory, and other health problems, as well as a lack of access to health care, are likely to be more vulnerable to the impact of toxic air pollution.⁶⁷ Where a rule affects communities that are disproportionately minority or lower income, EPA

⁶⁴ 42 U.S.C. § 7412(f)(2).

⁶⁵ See, e.g., NAS 2009 at 135-39, 145-51 (explaining that "[h]ow the population responds to chemical insults depends on individual responses, which vary among individuals"; and "[i]f the sensitive people constitute a distinct group either because of their numbers or because of identifiable characteristics—such as ethnicity, genetic polymorphism, functional or health status, or disease—they should be considered for separate treatment in the overall risk assessment"); *id.* at 112 (noting that EPA's guidelines do not address variability due to factors "such as age, ethnic group, socioeconomic status, or other attributes," and explaining that "there is a need for a nonzero default to address the variation in the population expected in the absence of chemical-specific data"); see also *id.* at 134 (discussing various factors and recommending that "much more emphasis needs to be placed on describing the ranges of susceptibility and risk"); see also *id.* at 177-82, 196.

⁶⁶ *Id.* at 214-15.

⁶⁷ See, e.g., Chari *et al.*, *Integrating Susceptibility*, at 1078 & nn.5-10 (citing research); see also Cal. EPA, OEHHA, "Cumulative Impacts," *supra*, at 6, 10, 12-17.

cannot ignore this greater risk in its assessment. As a key starting point, EPA must assess the greater health risk based on socioeconomic status found in epidemiological research studies.⁶⁸ As the NAS recognized, “there is growing epidemiologic evidence of interactions between environmental stressors and place-based and individual-based psychosocial stressors, driven in part by the spatial and demographic concordance between physical and chemical environmental exposures and socioeconomic stressors,” and there is also a growing field of information on social epidemiology, which addresses the relationship between social factors and disease in human populations.⁶⁹ Data describing these factors are available from the Center for Disease Control’s Environmental Public Health Tracking (“EPHT”) Program, the U.S. Agency for Toxic Substances and Disease Registry, state and local health agencies, and academic researchers,⁷⁰ and EPA must consider and use such information in its risk assessments.

Further, EPA must recognize and evaluate the need to consider socioeconomic factors not only as part of an environmental justice analysis, but also as part of EPA’s consideration of both vulnerability and variability, as core elements of the risk assessment itself. EPA has been assessing the demographics of affected communities, pursuant to CAA § 112(f) and the Environmental Justice Executive Order 12898.⁷¹ This is necessary and important to continue. However, in addition to looking at the demographic census data on race, ethnicity, poverty level, and similar factors, EPA must also assess the starting point or baseline overall health status of the affected individuals and communities using the best available data at a local and national level, including the baseline cancer levels, respiratory problems, and health problems associated with the toxic chemicals emitted by a source category. Doing so would be consistent with the 1999 Residual Risk Report.⁷² Further, EPA has significant research available on which it must draw to incorporate “overall health” into its risk assessments. For example, the American Lung Association has published research showing that African Americans are at a much higher risk of lung cancer than white Americans, and that African-American men have a 37 percent higher risk of lung cancer than white men.⁷³ EPA must collect and consider this type of health information as part of each risk assessment that disproportionately affects particular minority groups and communities.

Thus far, EPA has failed to adequately assess human variability, particularly the

⁶⁸ NAS 2009 at 109-10 & tbl. 4-1 (describing the need to consider increased susceptibility due to prior and concurrent exposures; and to “social and economic factors”); *id.* at 220-21 (describing ways to assess cumulative risk including by consideration of “epidemiologic concepts” and information, and by considering “what the burden of disease is in the context of simultaneous exposure to a number of stressors”); *id.* at 230 (discussing the role of epidemiology and surveillance data).

⁶⁹ *Id.* at 230-33.

⁷⁰ *Id.* at 232 (describing data available on health status, and patterns of diseases and exposures).

⁷¹ Exec. Order 12898, “Federal Actions To Address Environmental Justice,” *supra*.

⁷² U.S. EPA, “Residual Risk Report to Congress” at 42, 67 (Mar. 1999), EPA-453/R-99-00 (discussing factor of “overall health” and recognizing the need to consider sensitive subpopulations that “consist of a specific set of individuals who are particularly susceptible to adverse health effects because of physiological (e.g., age, gender, pre-existing conditions), socioeconomic (e.g., nutrition), or demographic variables, or significantly greater levels of exposure,” based on various demographic factors).

⁷³ Am. Lung Ass’n, “Too Many Cases, Too Many Deaths: Lung Cancer in African Americans” at 1 (2010), <http://www.lungusa.org/assets/documents/publications/lung-disease-data/ala-lung-cancer-in-african.pdf> (explaining higher risk to African Americans even though primary factor for lung cancer, *i.e.*, cigarette smoke exposure, is lower than for whites); *see also* State of Lung Disease in Diverse Communities: 2010, available at www.LungUSA.org.

increased vulnerability of different socioeconomic groups, or to incorporate the information gained from the environmental justice analysis into its risk assessment. As a typical example of how EPA has handled this issue in many recent rulemakings, in promulgating the Secondary Lead Smelting air toxics rule, EPA recognized that there are greater impacts on communities of color and lower income communities.⁷⁴ However, EPA did not incorporate the additional vulnerability this represents at all into its risk assessment.⁷⁵ As the NAS discussed, “EPA should compile relevant data related to socioeconomic status (SES), which may serve as a proxy for numerous individual risk factors . . . and may be a more direct measure of vulnerability than could reasonably be assembled by looking at all relevant individual risk factors.”⁷⁶ EPA should follow the NAS recommendations and science to do so in its residual risk assessments.

In addition, EPA should simply develop and use a default factor to account for socioeconomic and other community-based stressors, just as it does to account for intrinsic biological factors.⁷⁷ For example, it traditionally uses a factor of 100 to account for the use of animal studies, when translating such studies to assess human impacts. The Food Quality Protection Act directed EPA to use a factor of 10 to account for in utero exposure. California’s Office of Environmental Health Hazard Assessment uses a similar factor to account for in utero exposure. EPA also uses age-dependent adjustment factors in other contexts. EPA should do the same to account for increased vulnerability based on socioeconomic factors or the presence of multiple sources to which a community is exposed.

II. ASSESS THE CUMULATIVE BURDEN OF EXPOSURES TO MULTIPLE POLLUTANTS AND SOURCES VIA MULTIPLE PATHWAYS

A. Perform multipathway assessment for all persistent and all bioaccumulative pollutants.

EPA must assess multipathway (*i.e.*, non-inhalation) risk for all metals and all other pollutants with a persistent or bioaccumulative impact, as OEHHA does. Instead, EPA generally restricts its multipathway risk screening assessment to only those contaminants identified in the 2003 Risk Assessment Guidance as being both persistent and bioaccumulative in the

⁷⁴ EC/R Memo, Prepared for EPA, “Risk and Technology Review - Final Analysis of Socio-Economic Factors for Populations Living Near Secondary Lead Smelting Facilities at 9-10” (Dec. 2011), EPA-HQ-OAR-2011-0344-0161 (finding minority population facing an elevated cancer risk due to secondary lead smelters’ emissions was more than one-and-a-half times higher than the national minority percentage; Hispanic was 3 times higher than national; “Other and Multi-Racial” was three times higher than national; and lower income measures were also higher) (also describing disproportionate exposure of Hispanics).

⁷⁵ EPA, OAQPS, “Residual Risk Assessment for the Secondary Lead Smelting Source Category” (Dec. 2011), EPA-HQ-OAR-2011-0344-0160 (not addressing vulnerability or disproportionate socioeconomic impact in the health risk assessment); National Emissions Standards for Hazardous Air Pollutants From Secondary Lead Smelting, 77 Fed. Reg. 556, 579 (Jan. 2012) (not describing any action EPA took in view of disproportionate effect of source category’s pollution, and stating only that the rule “increases the level of environmental protection for all affected populations”).

⁷⁶ NAS 2009 at 226 (citing O’Neill *et al.* (2003)).

⁷⁷ Morello-Frosch *et al.*, *supra* note 4, at 883.

environment (*i.e.*, PB-HAPs).⁷⁸ EPA's 2003 list of 14 PB-HAPs is incomplete, however, because it ignores other HAPs which present a multipathway risk.⁷⁹

EPA's choice to restrict its analysis to only certain contaminants that bioaccumulate is not supported by the 2003 Guidance which states that "multipathway risk assessment may be appropriate generally when air toxics that persist and which also *may* bioaccumulate and/or biomagnify are present in releases."⁸⁰ This guidance does not direct that the multipathway assessment be limited to only those contaminants listed as PB-HAPs, but that is how EPA has applied it. The choice to exclude those contaminants which persist and accumulate in soils underestimates risks from HAPs. The 2003 guidance document recognized deposition of *persistent* HAPs as a source of soil contamination presenting a potentially significant route of exposure, particularly for children.⁸¹

Based on EPA's own guidance, and based on recent scientific information compiled by OEHHA, EPA must perform a full multipathway risk assessment for all metals. California OEHHA has recommended a multipathway assessment for metals based on scientific research.⁸² EPA should consider and apply this science in its risk assessments.

EPA simply may not assume that the ingestion and other multipathway risks are zero for persistent pollutants when science shows otherwise. The failure to assess multipathway risk from exposure to all PB-HAPs, both individually and cumulatively, results in an underestimate of the health risks of HAP emissions.

The following is a list of top priority pollutants for EPA to add to its list of 14 chemicals for which multipathway risk should be evaluated. These chemicals have been shown to have a significant potential for deposition and retention within the environment. Air emissions of these compounds therefore present a risk to nearby communities via dermal, ingestion, and other non-inhalation pathways that are currently not being considered in residual risk assessments. For extensive documentation on the rationale for multipathway analysis for these compounds and multipathway exposure parameters please review the OEHHA 2012 Guidelines for Exposure Assessment.⁸³

- i. Arsenic
- ii. Hexavalent chromium
- iii. Nickel
- iv. Diethylhexylphthalate
- v. Beryllium

⁷⁸ See, e.g., "Draft Residual Risk Assessment for the Ferroalloys Source Category" (Oct. 2011) at 10, EPA-HQ-OAR-2010-0895-0046 (only analyzing multipathway risk for pollutants on EPA's outdated PB-HAP list even though arsenic is a persistent pollutant and is also emitted).

⁷⁹ EPA, "PB-HAP Compounds, Risk Assessment and Modeling – Air Toxics Risk Assessment Reference Library, Vol. I Tech. Resource Manual, Ch. 4 Air Toxics: Chemicals, Sources, and Emissions Inventories," at 4-10, Exhibit 4-2 (2003), http://www.epa.gov/ttn/fera/risk_atra_vol1.html; http://www.epa.gov/ttn/fera1risk_atra_vol1.html.

⁸⁰ *Id.*, Part III, Ch. 14 "Human Health Risk Assessment: Multipathway," at 14-1(emphasis added).

⁸¹ *Id.* ch. 20.

⁸² OEHHA 2012 Guidelines, Appendix E, at E-5, E-10 to E-12, http://oehha.ca.gov/air/hot_spots/SRP/index.html.

⁸³ *Id.* App. E.

vi. Selenium

In addition to these six listed by OEHHA, we also urge EPA to assess the persistent effects of manganese and naphthalene and add these to the PBT list for similar reasons. Manganese is a pollutant to which children have particular exposure and vulnerability, and there is evidence that it can pose a multipathway risk due to elevated levels in soils around major emission sources.⁸⁴ Naphthalene is a polycyclic aromatic hydrocarbon (PAH) and as such must be considered in the POM category which is listed as a PB HAP. Naphthalene has been demonstrated to be persistent and to bioaccumulate in biota, particularly shellfish.⁸⁵

2. Perform multipathway assessment for all pathways of exposure, including those that particularly affect children.

EPA should recognize that the science shows *additional pathways* that it has not addressed for certain pollutants, for which it does recognize the need for a multipathway assessment. For example, OEHHA has recognized that breast milk exposure can be a pathway that creates health risk due to lead.⁸⁶ EPA should evaluate the research on various pathways of toxic exposure discussed by OEHHA.

In addition, science shows that EPA has been relying on outdated estimates of incidental soil ingestion exposures and EPA must update these values to ensure that it considers the urban child scenario in its multipathway risk assessment.⁸⁷ Risk assessments of exposure to soil contaminants should evaluate both direct exposure, hand-to-mouth, and indirect, object-to-mouth exposure. Indirect hand-to-mouth activity is the exposure from young children who touch an object or food with soil contaminated hands and then put that object or food into their mouths. Published studies show that there is noticeable indirect hand-to-mouth activity in infants and children. In fact, one study found that, on average, a toddler will touch an object and then put that object into his or her mouth 15 times in one hour. At the high end of the study's

⁸⁴ See, e.g., ATSDR, "Draft Toxicological Profile for Manganese" at 12 (Sept. 2012) ("Manganese concentrations in soil may be elevated when the soil is in close proximity to a mining source or industry using manganese and may therefore pose a risk of excess exposure to children who ingest contaminated soil.") <http://www.atsdr.cdc.gov/ToxProfiles/tp151.pdf>; see also Cal. EPA, OEHHA, "Development of Health Criteria for School Site Risk Assessment Pursuant to Health and Safety Code Section 901(g): Child-Specific Reference Doses (chRDs) for School Site Risk Assessment: Manganese and Pentachlorophenol," at 10 (June 2006) (discussing science showing that manganese can accumulate in the brain and showing that ingestion of high levels of manganese is associated with harm).

⁸⁵ R. Yender *et al.*, NOAA, "Managing Seafood Safety after an Oil Spill," (Nov. 2002).

⁸⁶ OEHHA 2012 Guidelines, *supra* note 58, App. E, at E-12, tbl. E3.

⁸⁷ As an additional problem, California's lead in soil standard is more stringent than EPA's due to more recent science on the harm of lead exposure. EPA has recognized that its standard is based on out-dated information about lead, that previously assumed children's blood-lead levels below 10.0 ug/dL was safe. EPA now admits that number is not protective, but has not updated its soil standard. See, e.g., "EPA fails to revise key lead-poisoning hazard standards," USA Today (Mar. 10, 2013), <http://www.usatoday.com/story/news/nation/2013/03/10/epa-has-not-revised-lead-hazard-standards-for-dust-and-soil/1971209> ("The EPA has not revised key hazard standards that protect children from lead poisoning since 2001, despite science showing harms at far lower levels of exposure than previously believed."); Children's Health Advisory Protection Comm., Letter to Administrator Jackson Regarding Childhood Lead Poisoning (Mar. 29, 2012), http://yosemite.epa.gov/oehp/ochpweb.nsf/content/chpac_childhood_lead_poison_letter.htm.

distribution (90th percentile), that rate rises to 66 times per hour.⁸⁸ This same study found a statistically significant positive correlation between the frequency of object or food in mouth activity and blood lead levels. The 2011 update to EPA's Exposure Factors Handbook includes more recent studies and estimates of hand-to-mouth behavior, which must be used to assess risks from exposures to contaminated soils.⁸⁹

3. Better account for the aggregate impact of inhalation and multipathway cancer and chronic non-cancer risk by adding each type of similar risk together for all pollutants.

The purpose of the multipathway assessment is to allow EPA to look overall at a person's exposure – not just inhalation, and not just other exposure pathways, in isolation. To do so, EPA must add inhalation and multipathway risk. Failing to add up each type of risk in order to come up with a *total* cancer risk number and a *total* non-cancer number, and then (as further discussed below), a *cumulative* burden metric makes EPA's overall risk assessment incomplete.

A major problem in past risk assessments is that EPA does a screening exercise for multipathway risk and then often decides not to do a full multipathway risk assessment.⁹⁰ This is problematic for two reasons. First, it withholds information from the public on the amount of non-inhalation risk. Second, it hampers EPA's ability to perform a full, cumulative analysis taking into account all the relevant exposures. EPA should ensure that for each risk assessment it fully assesses multipathway or non-inhalation risk, and that it also combines this with inhalation risk, to come up with a cumulative risk level that EPA and the public can then analyze in the rulemaking process.

B. Include Multiple Pollutants.

1. Assess the combined total of each type of risk for multiple pollutants.

EPA must assess the total and synergistic cancer risk and total chronic non-cancer risk for different pollutants. For example, as OEHHA found, “[t]he potential neurotoxicity of arsenic in children, possibly in combination with other environmental agents, is also a concern. Studies in mice (Meija et al., 1997) indicate combined effects of lead and arsenic on the central nervous system that were not observed with either metal alone.”⁹¹

⁸⁸ Ko, S., Schaefer *et al.*, *Relationships of Video Assessments of Touching and Mouthing Behaviors During Outdoor Play in Urban Residential Yards to Parental Perceptions of Child Behaviors and Blood Lead Levels*, 17 J. of Exposure Science and Environ. Epidemiology 47 (2007).

⁸⁹ EPA, Exposure Factors Handbook, 2011 Edition (<http://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=236252>).

⁹⁰ “Draft Residual Risk Assessment for the Ferroalloys Source Category” (Oct. 2011) at 27-31, EPA-HQ-OAR-2010-0895-0046 (although the screening analysis showed mercury levels that were 4 times EPA's screening threshold and POM levels that were 60 times EPA's screening threshold, EPA did not perform a full multipathway analysis or add the multipathway risks to the inhalation risks for POM, which EPA also identified as an inhalation-based cancer risk driver).

⁹¹ Cal. EPA, OEHHA, “Prioritization of Toxic Air Contaminants - Children's Environmental Health Protection Act, Arsenic and Arsenic Compounds” at Arsenic-2 (Part II) (Oct. 2001).

In addition, EPA evaluates total cancer risk (using the maximum individual risk or “MIR”) and chronic non-cancer risk (using the target-organ specific hazard index “TOSHI”) based on the combined exposure to pollutants with a common health impact.⁹² EPA should apply these same principles to create a mechanism for assessing the total acute risk to chemical mixtures, such as a TOSHI, that aggregates the acute impacts on the same organ systems for all pollutants.

2. Assess the total cumulative risk burden from all pollutants.

EPA must create a metric to assess the total and cumulative risk burden, rather than only looking at each type of risk in a discrete, separate way.⁹³ EPA should be integrating its assessments and performing a “comprehensive risk assessment” as the NAS has emphasized.⁹⁴ After first assessing the total cancer, chronic non-cancer, and acute risks, for both inhalation and multipathway exposure, EPA also must create a metric to assess the total bundle of risks.⁹⁵ EPA must aggregate health risk for each pollutant, and each type of health risk, to create a cumulative risk determination for the individual “most exposed” to emissions as the Act requires.⁹⁶

Unless and until EPA creates a combined health risk metric, it is unclear how it can make an ample margin of safety determination that is based on the full picture of health risk for a source category and that can be compared to other source categories. EPA must assess the full cumulative burden for public health. By failing to perform a full, cumulative risk assessment, EPA fails to gather the information needed to assess whether the risk to public health is acceptable under CAA § 112(f)(2).

C. Account for Multiple Sources.

EPA must assess and account for the cumulative impact and risk caused by exposure to multiple source categories’ toxic air emissions. In many communities containing sources of toxic air emissions, there are many other nearby sources of toxic air emissions within the 3, 5, 10, and the full 50 km radius of EPA’s residual risk assessment. Such exposures increase the vulnerability of a community to new and additional toxic air emissions, as discussed in Part I.E, above.⁹⁷ Further, EPA’s own environmental justice analysis has found that sources of toxic air pollution listed under CAA section 112, such as lead smelters, chromium electroplaters, and many others frequently create disproportionate health risk for minority and lower income communities. This problem is exacerbated by the fact that multiple sources of pollution are more

⁹² See, e.g., EPA, OAQPS, “Residual Risk Assessment for the Secondary Lead Smelting Source Category” at 26 (Dec. 2011), EPA-HQ-OAR-2011-0344-0160.

⁹³ See, e.g., NAS 2009 at 177 (“The underlying scientific and risk-management considerations point to the need for unification of cancer and noncancer approaches in which chemicals are put into a common analytic framework regardless of type of outcome.”).

⁹⁴ *Id.* at 131; see also *id.* at 132-33 (discussing related issues).

⁹⁵ Cal. EPA, OEHHA, “Cumulative Impacts,” *supra* at 19-21, 25 (describing total “pollution burden” as sum of exposures, public health effects, and environmental effects); EPA, “Concepts, Methods and Data Sources,” *supra*, at 4-42 to 4-46.

⁹⁶ 42 U.S.C. § 7412(f)(2).

⁹⁷ See, e.g., NAS 2009 at 214.

likely to be more concentrated in minority and lower income communities, creating a serious environmental justice problem.⁹⁸

Therefore, in addition to performing a cumulative assessment from each source category alone, EPA also must perform a cumulative analysis that considers source categories' individual impact and risk with that of other sources to which people are exposed.⁹⁹ EPA has acknowledged the importance of addressing multiple source exposures, by stating that it “understands the potential importance of considering an individual’s total exposure to HAP in addition to considering exposure to HAP emissions from the source category and facility,” and that it is “interested in placing source category and facility-wide HAP risks in the context of total HAP risks from all sources combined in the vicinity of each source.”¹⁰⁰ And, EPA has also recognized this need in its recent risk report.¹⁰¹ Yet, so far EPA has failed to follow through on this. Although EPA has looked at all sources within a source category, it generally has not looked at other exposures. Although EPA has calculated what it calls “facility-wide” risk for different sources collocated at the same address, it has not used that number to set standards, and it has ignored different sources across the street or in close proximity.¹⁰²

EPA’s failure to assess the combined, cumulative impact on health risk from multiple pollution source categories conflicts with the recommendation from the Scientific Advisory Board that in May 2010 urged EPA to incorporate cumulative risk into its residual risk analysis. The SAB stated that “RTR assessments will be most useful to decision makers and communities if results are presented in the broader context of aggregate and cumulative risks, including background concentrations and contributions from other sources in the area.”¹⁰³

To perform a cumulative risk or impact analysis, EPA should combine current baseline emissions, exposures, and health impacts in addition to those of the specific source category EPA is reviewing. The NAS explained the need for “[i]ncorporation of background additivity to account for . . . [a]dditional sources of exposure to the same chemical or to similarly acting chemicals (including endogenous sources). . . .”¹⁰⁴ As part of this analysis, EPA should aggregate or add the emissions for the most-exposed communities coming from: (1) the source category (including all individual sources within it); (2) facility-wide risk from collocated sources outside of this category; and (2) all other sources of toxic air pollution in the area.

⁹⁸ See, e.g., Cal. EPA, OEHHA, “Cumulative Impacts,” *supra*.

⁹⁹ We support EPA’s recognition of the need to assess whether the maximum exposed individual is exposed to emissions from more than one source *within* each source category, as it does using the AERMOD modeling tool. We also appreciate that EPA has considered facility-wide risk in some rulemakings. However, those assessments offer only part of the picture. And, even on both of these issues, EPA has provided very little information about what it included in such assessments. EPA often just states numbers found for facility-wide risk, without explaining where those numbers came from, how they were calculated, or what emission sources they cover.

¹⁰⁰ NESHAP: Mineral Wool Production and Wool Fiberglass Manufacturing, 76 Fed. Reg. 72,770, 72,786 (Nov. 25, 2011).

¹⁰¹ U.S. EPA, “Concepts, Methods and Data Sources,” *supra*, at xxxii (defining a cumulative risk assessment as including “aggregate exposures by multiple pathways, media and routes over time, plus combined exposures to multiple contaminants from multiple sources”).

¹⁰² See examples cited, *supra* note 11.

¹⁰³ SAB May 2010 at ii, *supra* note 62, at 10.

¹⁰⁴ NAS 2009 at 180 (explaining that this may require the use of default factors).

Virtually all of the existing federal air toxics standards (under section 112(d)) require periodic testing and monitoring, and this is something EPA must ensure is included in all rules as it updates them. Using these data, EPA can aggregate the community's exposure and assess the full health threats faced by the affected community, including from the source under review.

EPA must also consider the research that has already occurred to assess health risk from toxic air pollution in urban communities nationwide.¹⁰⁵ EPA should also draw on the OEHHA cumulative assessment approach.¹⁰⁶ EPA should consult with OEHHA and investigate the scientific approach it is using to address cumulative impacts, and consider and apply a similar science-based approach in residual risk assessments.

Further, the NAS has recommended that EPA evaluate “background exposures and vulnerability factors,” as well as use “epidemiologic and toxicologic evidence” in its risk assessments.¹⁰⁷ Rather than separating an environmental justice analysis and considerations of inequality from the risk assessment, considering these factors as part of the cumulative risk assessment – because of the increased vulnerability created (as also discussed in Part I.E above) – would be a more effective, meaningful, and scientific approach.

In assessing a source category's emission contributions in affected communities and considering whether these contributions cause the most-exposed people to experience an unacceptable level of public health risk when combined with the existing baseline from past emissions, other HAP emissions, and the community's health status, EPA can describe and manage uncertainties, as it does and other federal agencies do for many other analyses.¹⁰⁸ Uncertainties do not justify failing to assess and address the severe cumulative harm and risk to local communities from air toxics sources. Rather, there is no excuse for treating an unknown amount of additional risk as a missing default, to use the NAS term.

¹⁰⁵ See, e.g., Rachel Morello-Frosch & Bill M. Jesdale, *Env'tl. Health Perspectives, Separate and Unequal: Residential Segregation and Estimated Cancer Risks Associated with Ambient Air Toxics in U.S. Metropolitan Areas*, 114(3) *Env'tl. Health Perspectives* 386 (2006) (assessing toxic air pollution cancer risk for 309 metropolitan areas encompassing 45,710 tracts); “National Air Toxics Program: The Integrated Urban Strategy,” 64 *Fed. Reg.* 38,706, 38,738 (July 19, 1999).

¹⁰⁶ See, e.g., Cal. EPA, “Cumulative Impacts,” *supra*.

¹⁰⁷ NAS 2009 at 221-23 (discussing Menzie et al. 2007 model); *id.* at 230 (discussing the role of epidemiology and surveillance data).

¹⁰⁸ See, e.g., 42 U.S.C. §§ 7475(a)(3), 7503(a)(1) (requiring a localized, cumulative assessment of whether or not a new or modified source's additional emissions will cause an attainment area to deteriorate, or will make it difficult for a nonattainment area to make progress toward achieving the national ambient air quality standards); *New York v. EPA*, 443 F.3d 880, 883 n.1 (D.C. Cir. 2006) (citing *New York v. EPA*, 413 F.3d 3, 11-14 (D.C. Cir. 2005)); see also 40 C.F.R. § 1508.27(b)(7) (requiring a consideration of “[w]hether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts”); see also 40 C.F.R. § 1508.7; *Nat'l Wildlife Fed'n v. Nat'l Marine Fisheries Serv.*, 524 F.3d 917, 930 (9th Cir. 2008) (applying 16 U.S.C. § 1536(a)(2) to enforce the Endangered Species Act duty to ensure against jeopardy which includes the requirement to assess a newly proposed action in the context of all other impacts, and determine whether or not the specific action will “tip a species from a state of precarious survival into a state of likely extinction,” or, where baseline conditions already jeopardize a species, whether it will “deepen[] the jeopardy by causing additional harm”).

As a scientific and policy matter, where there is exposure to air toxic emissions beyond the individual source category, the level of total risk that is occurring, including the baseline health risk and the risk from other sources, is greater. Thus, the total risk that is unacceptable for the most-exposed person must in fact be lower for each source category that person is exposed to, because it combines with other risks to create a *total* risk from all regulated source categories which must be minimized. Looking at a source category's contribution of risk in isolation is equivalent to ignoring the facts and pretending other health risks are not occurring. EPA may not decide that it is okay for a person to be exposed at a higher level simply because they live in a community where they are exposed to multiple sources of air pollution. That is the opposite of what EPA is required to do – protect the people in local communities who are most exposed and most vulnerable to air pollution. It also conflicts with EPA's own commitment to consider and provide environmental justice to overburdened communities.

At minimum, until EPA develops a data-driven approach to comprehensively model cumulative risk or impacts from multiple sources, EPA must not treat multiple source exposure as a missing default, or ignored amount of health risk. EPA must incorporate an explicit default or uncertainty factor to adjust the degree to which each individual source category is contributing to the total risk experienced by the most-exposed individuals. For example, wherever there is evidence that the source category is contributing pollutants on top of a history of other exposures or is contributing pollutants in addition to other source categories, the “unacceptable” level of cancer, non-cancer chronic, and acute risk from the source category must be adjusted downward based on the number of other facilities contributing HAP exposure risks (such that no single source category could consume all of it, when the most-exposed person is exposed to many other source categories). For a source category in an area with up to 10 other HAP-emitting facilities, this default or uncertainty factor should equal at least 10, consistent with the common scientific use of this factor for other kinds of vulnerability.¹⁰⁹

D. Account for Additional Risk and Uncertainty.

In addition to and related to many of the issues already discussed, EPA must stop treating various types of risk as zero when the science shows risk is present; simply because EPA has not yet developed a risk function for a pollutant, type of exposure, or type of risk, does not mean risk does not exist and can be ignored.¹¹⁰ As the NAS explained, EPA should develop “explicitly stated defaults to take the place of implicit or missing defaults,” and “[k]ey priorities should be development of default approaches to support risk estimation for chemicals lacking chemical-specific information to characterize individual susceptibility to cancer . . . and to develop a dose-response relationship.”¹¹¹

1. EPA must not treat risk as zero for a pollutant for which it has no reference value.

¹⁰⁹ For areas with more facilities, which cause an even greater level of health risk combined, the UF should be adjusted accordingly, *i.e.*, 11-20 facilities would result in an UF of 20, and more than 20 would result in an UF of 100, so the source category's contribution is no higher than 1/100 of the threshold.

¹¹⁰ *See, e.g.*, NAS 2009 at 203-04, 207.

¹¹¹ *Id.* at 207.

As the NAS explained, it is a problem that “agents that have not been examined sufficiently in epidemiologic or toxicologic studies are insufficiently included in or even excluded from risk assessments” by EPA.¹¹² Many chemicals have no cancer slope factor, RfD, RfC.¹¹³ It is not appropriate to treat such compounds “as though they pose no risk that should be subject to regulation.”¹¹⁴ The NAS has recommended that EPA develop “explicit defaults to use in place of missing defaults,” including for its “untested-chemical assumption,” *i.e.*, that a chemical with no reference value poses no risk.¹¹⁵

Where there is no reference value for a pollutant, EPA may not simply *ignore* health risks associated with these pollutants completely in its analysis by hiding behind uncertainty. Section 112 requires EPA to address and regulate all emitted HAPs. EPA states that “an understatement of risk for these pollutants at environmental exposure levels is *possible*,” in its rulemakings due to the lack of reference values.¹¹⁶ In fact, an understatement of risk for pollutants that are excluded from the analysis is *certain* because EPA has performed no quantitative assessment of health risk for those pollutants *at all*. The absence of a reference value means that EPA does not know by how much it is *underestimating* risk to human health, but it does know that its assessment is an underestimation.

In the absence of an available reference dose, EPA must, at minimum, add an uncertainty factor to account for the additional risk that a HAP likely causes, until such time as EPA does have a reference value to use. Using a protective uncertainty factor – developed based on the best available science – would allow EPA to satisfy its legal duty under section 112(f)(2) to prevent unacceptable health risk, and ensure an “ample margin of safety to protect public health.”¹¹⁷ The NAS has described an approach EPA can use to account for this risk, and explained that this approach “is based on the notion that for virtually all chemicals it is possible to say *something* about the uncertainty distribution regarding dose-response relationships.”¹¹⁸ For example, EPA can use information on chemical structure, available toxicologic tests and model or experimental data, and data on similar chemicals that have been well-studied.¹¹⁹

Section 112(f)(2) of the CAA creates a critical duty and opportunity for EPA to conduct a comprehensive and protective analysis of risk to public health and the environment. In view of this, it is a serious problem for EPA’s analysis that some pollutants continue to have no reference values.¹²⁰ Over twenty years after the Clean Air Act was amended, sufficient studies for some pollutants have not been conducted to calculate reference doses, reference concentrations, or potency values. Moreover, the Integrated Risk Information System (“IRIS”) review process has been bogged down for many pollutants as the Government Accountability Office recently

¹¹² *Id.* at 193.

¹¹³ *Id.* at 203.

¹¹⁴ *Id.* at 193.

¹¹⁵ *Id.* at 203.

¹¹⁶ EPA, “National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins; Pesticide Active Ingredient Prod.; and Polyether Polyols Prod., Proposed Rule,” 77 Fed. Reg. 1268, 1282 (Jan. 9, 2012) (emphasis added).

¹¹⁷ 42 U.S.C. § 7412(f)(2).

¹¹⁸ NAS 2009 at 203 (emphasis added).

¹¹⁹ *Id.* at 204.

¹²⁰ *See, e.g.*, 77 Fed. Reg. 1268, at 1282.

documented.¹²¹ As the Center for Progressive Reform (“CPR”) has recognized, EPA should prevent the delay in this process from undermining its residual risk analysis for source categories under review.¹²²

For pollutants currently under IRIS assessment, EPA must use the best available scientific information from the IRIS review during current rulemakings.¹²³ At minimum, EPA must account for the lack of reference values or the lack of an up-to-date final IRIS assessment rather than just allowing important rulemakings to go by without any consideration of health risk due to such pollutants.¹²⁴

2. EPA must account for the cumulative risk of upsets and malfunctions, instead of ignoring this risk.

As another example of the problem of ignoring health risk in its assessment, EPA generally ignores the higher emissions caused by malfunction or upset emissions, which can accumulate and combine to increase public health impacts and risk. “Upsets are a significant problem for many areas, including rural ones, but they are a particular problem for the predominantly lower income communities of color surrounding many refinery and chemical complexes.”¹²⁵ Malfunction or upset events increase emissions and thereby pose increased

¹²¹ U.S. Gov’t Accountability Office, GAO-12-42, Chemical Assessments: Challenges Remain with EPA’s Integrated Risk Information System Program 17-18 (2011).

¹²² See Rena Steinzor *et al.*, *Setting Priorities for IRIS: 47 Chemicals that Should Move to the Head of the Risk-Assessment Line*, Ctr. For Progressive Reform (Dec. 2010), (http://www.progressivereform.org/articles/IRIS_Priorities_1010.pdf). CPR’s analysis of IRIS offers a critical expose of these problems. *EPA’s IRIS: A Database With Blind Spots*, Ctr. For Progressive Reform, <http://www.progressivereform.org/iris.cfm> (last visited June 27, 2013). See also Gov’t Accountability Office, GAO-11-278, “High Risk Series: An Update” (2011); Gov’t Accountability Office, GAO-09-774T, <http://www.gao.gov/new.items/d11278.pdf>; Gov’t Accountability Office, “EPA Chemical Assessments: Process Reforms Offer the Potential to Address Key Problems,” (2009); Gov’t Accountability Office, GAO-08-743T, <http://www.gao.gov/new.items/d09774t.pdf>; Gov’t Accountability Office, “Toxic Chemicals: EPA’s New Assessment Process Will Increase Challenges EPA Faces in Evaluating and Regulating Chemicals” (2008); Gov’t Accountability Office, GAO-08-440, 29, (2008), <http://www.gao.gov/new.items/d08743t.pdf>; Gov’t Accountability Office, “Chemical Assessments: Low Productivity and New Interagency Review Process Limit the Usefulness and Credibility of EPA’s Integrated Risk Information System” (2008), <http://www.gao.gov/new.items/d08440.pdf>.

¹²³ Integrated Risk Information System (IRIS); Announcement of 2012 Program, 77 Fed. Reg. 26,751 (May 7, 2012).

¹²⁴ See, e.g., Draft Residual Risk Assessment for the Mineral Wool Production and Wool Fiberglass Manufacturing Source Categories at 23 tbl. 3.1-1; *id.* at 30 tbl. 4.1-1 (Sept. 2011), EPA-HQ-OAR-2010-1042-0086 (due to lack of reference value for hydrogen fluoride (HF), antimony, and other pollutants, EPA failed to account for any health risk from these pollutants). Similarly, there is no reference value for lead, and no safe level of lead exposure. Although information exists regarding how EPA could try to address this (such as using California’s benchmark for action of avoiding a blood-lead level increase of 1.0 ug/dL), EPA regularly assesses only whether a source, alone, will cause an exceedance of the 2008 Lead National Ambient Air Quality Standards, instead of evaluating how to prevent harm from the lead emissions of a source category, in combination with other pollutants and other sources. See, e.g., *id.* at 11; “Secondary Lead Smelting Residual Risk Assessment” at 12 (Dec. 2011), EPA-HQ-OAR-2011-0344-0160.

¹²⁵ Env’tl. Integrity Project, *Gaming the System: How Off-the-Books Industrial Upset Emissions Cheat the Public Out of Clean Air* at 1-2 (Aug. 2004) (finding significant likelihood of an upset at refineries, chemical plants, gas plants and a carbon black plant, and finding that the resulting emissions release is many times higher than the amount of otherwise-reported annual emissions), http://www.environmentalintegrity.org/news_reports/Report_Gaming_System.php.

health risks which EPA must consider. Where control equipment fails, emissions could be at least 100 times greater (*e.g.*, in the circumstance where a control device has 99% efficiency, such that an uncontrolled release would cause 100 times the usual amount of emissions).

Failing to look at the true potential for spikes in emissions over a person's lifetime may underestimate acute risk, cancer risk and the amount of chronic risk based on pollutants that persist in the environment, such as PCBs, POM, lead, and cadmium. Ignoring these emission spikes is equivalent to treating additional health risk caused by exceedances as zero. EPA knows that there is additional risk from malfunctions and violations, and that this additional risk should not be ignored in risk assessments.

To assess the health risk from malfunctions, EPA has information available or can collect information on major sources' malfunction and violation histories.¹²⁶ Moreover, EPA regularly uses statistical methods and probability factors, which are readily available tools that EPA can also use to assess health risk due to malfunctions, to set clean air standards. Further, to calculate acute health risk, EPA uses what it calls a "worst case" scenario approach that attempts to account for some variability under the existing standard, which (although this does not fully do so) shows that the agency could similarly add a factor to account for malfunctions for acute and other types of health risk.

III. ACCOUNT FOR CUMULATIVE IMPACTS OF MULTIPLE EXPOSURES AND VULNERABILITIES BY SHIFTING THE LEVEL OF RISK WHICH TRIGGERS POLICY ACTION.

EPA has a longstanding policy of assuming that it is possible to find a safe or acceptable level of cancer and other kinds of health risks. Currently available science debunks this assumption because there is so much uncertainty built into EPA's risk assessments, and because EPA lacks information on so many pollutants. For communities overburdened by pollution, this policy is especially problematic.

As a major example, EPA should recognize that cancer risk from a major industrial source category of toxic air pollution (listed under CAA § 112) that is 100-in-1 million or less cannot be presumed safe or "acceptable." Since 1990, however, EPA has made this assumption. EPA based this assumption not on scientific information about cancer risk, but on an unusual study of people's perceptions of their own risk from 1988, known as the Survey of Societal Risk (July 1988), to consider various types of health risks at that time.¹²⁷ Using a comparison of cancer risk to other kinds of hazards Americans then faced in their daily lives, EPA effectively

¹²⁶ See, *e.g.*, EPA, Enforcement and Compliance History Online (ECHO), www.epa.gov/echo; Kelly Haragan, Env'tl. Integrity Project, "Gaming the System: How Off-the-Books Industrial Upset Emissions Cheat the Public Out of Clean Air" (Aug. 2004), 1-2, 5, http://www.environmentalintegrity.org/news_reports/Report_Gaming_System.php (finding significant likelihood of an upset at refineries, chemical plants, gas plants and a carbon black plant, and finding that the resulting emissions release is many times higher than the amount of otherwise-reported annual emissions and that "releases from upsets actually dwarf a facility's routine emissions.").

¹²⁷ Benzene Rule Docket No. OAQPS 79-3, Part I, Docket Item X-B-1, EPA Air Docket (cited at Nat'l Emission Standards for Hazardous Air Pollutants; Benzene Emissions from Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, Benzene Storage Vessels, Benzene Equipment Leaks, and Coke By-Product Recovery Plants, 53 Fed. Reg. 28,496, at 28,512-13 (July 28, 1988)).

chose a number out of a hat that it would consider acceptable. EPA looked at an odd collection of risks, such as dangers from driving a car, and found that “the presumptive level established for MIR [maximum individual risk of cancer] of approximately 1 in 10 thousand is within the range for individual risk in the survey, and provides health protection at a level lower than many other risks common ‘in the world in which we live.’”¹²⁸

EPA has failed to revisit or update this number for the decades since, even though scientists have made breakthroughs on early-life exposure and children’s vulnerability; biomonitoring and other data on adult body burdens of chemicals; the vulnerability of overburdened communities, including socioeconomic disparities; and on ways to analyze and control the impacts of pollutants on human health.

LANDMARKS SINCE 1990

- 1990 Clean Air Act Amendments required technology-based control for hazardous air pollutants and 8-year review of residual health risk to ensure protection of communities.
- 1993 National Research Council published *Pesticides in the Diets of Infants and Children*, finding that children are not little adults, and have greater exposures and susceptibility.
- 1994 President Clinton signed Executive Order 12898 on Environmental Justice.
- 1996 Food Quality Protection Act passed unanimously with a 10-Fold Children’s Safety Factor.

Safe Drinking Water Act amendments required attention to susceptibility of children.

EPA announced a new National Agenda to Protect Children’s Health.
- 1997 President Clinton signed the Children’s Environmental Health Executive Order 13045.
- 2000 EPA first published *America’s Children and the Environment*.
- 2009 National Academy of Science published *Science and Decisions: Advancing Risk Assessment*.
- 2009 Then-EPA Administrator Jackson declared environmental justice and children’s health priorities.
- 2011 EPA announced Plan EJ 2014 including rulemaking and science goals.

¹²⁸ 54 Fed. Reg. 38,044, 38,046 (Sept. 14, 1989) (emphasis added) (quotation omitted).

It is time for EPA scientists and science policymakers to revisit the outdated assumption EPA makes regarding what level of cancer risk triggers policy interventions. EPA's own policy regarding carcinogens recognizes that they have no safe threshold of exposure. EPA has appropriately recognized that cancer risks add up to increase lifetime risk. EPA cannot reconcile what it knows – and does not know – about carcinogens with its outdated presumption that a cancer risk of 100-in-1 million is acceptable.

Importantly, EPA's presumption regarding cancer risk ignores the experience of communities exposed to multiple sources and types of sources of pollution. Even if some level of risk might otherwise be acceptable, that cannot be assumed to be true for communities exposed to more than one source that is causing that level of health risk. EPA has a responsibility to address the science on cumulative impacts and risk and update its assumptions accordingly, to acknowledge that cancer risks below 100-in-1 million cannot be presumed safe.

EPA should also reform how it evaluates chronic and acute hazard indices, in which a risk number below 1 does not result in policy changes or standards. EPA should instead factor in uncertainties and vulnerability factors that adjust the "acceptable level of risk." This is currently done under FQPA when EPA uses factors to determine a Target Margin of Exposure and risks below this level warrant increased scrutiny and changes to allowable exposures.¹²⁹

In the face of increasing evidence which challenges the assumption of a safe or acceptable level of exposure, EPA should also consider reforming risk assessments to support reducing risks to the lowest possible level, to protect public health, rather than suggesting that there is a safe or acceptable level.

¹²⁹ See, e.g., EPA, Sulfuryl Fluoride; Proposed Order Granting Objections to Tolerances and Denying Request for a Stay, Proposed Rule, 76 Fed. Reg. 3422, 3427 (Jan. 19, 2011) (explaining use of MOE).

APPENDIX B: KEY SOURCES

In general, for further information on each of the topics discussed here, the agency should consult the following sources:

1. George Alexeef *et al.*, *A Screening Method for Assessing Cumulative Impacts*, 9 Int'l Journal of Env'tl. Research and Pub. Health 648-659 (2012); doi:10.3390/ijerph9020648.
2. Ramya Chari *et al.*, Integrating Susceptibility into Environmental Policy: An Analysis of the National Ambient Air Quality Standard for Lead, 9 Int'l Journal of Env'tl. Research Pub. Health 1077-1096 (2012).
3. Peter L. deFur *et al.*, Vulnerability as a Function of Individual and Group Resources in Cumulative Risk Assessment, 115(5) Env'tl. Health Perspectives, 817-24 (2007).
4. Kelly Haragan, "Gaming the System: How Off-the-Books Industrial Upset Emissions Cheat the Public Out of Clean Air," Env'tl. Integrity Project (Aug. 2004), http://www.environmentalintegrity.org/news_reports/Report_Gaming_System.php.
5. Sarah Janssen *et al.*, Strengthening Toxic Chemical Risk Assessments to Protect Human Health, NRDC, Sci. & Env'tl. Health Network, Issue Paper (Feb. 2012).
6. Kristen Lombardi, "'Upset' emissions: Flares in the air, worry on the ground," The Ctr. for Pub. Integrity, <http://www.publicintegrity.org/2013/05/21/12654/upset-emissions-flares-air-worry-ground>.
7. Paul Mohai, Byoung-Suk Kweon, Sangyun Lee & Kerry Ard, *Air Pollution Around Schools Is Linked to Poorer Student Health And Academic Performance*, 30(5) Health Affairs 852 (published online May 4, 2011; 10.1377/hlthaff.2011.0077).
8. Rachel Morello-Frosch *et al.*, Understanding the Cumulative Impacts of Inequalities In Environmental Health: Implications for Policy, 30(5) Health Affairs (2011).
9. Rachel Morello-Frosch & Bill M. Jesdale, Separate and Unequal: Residential Segregation and Estimated Cancer Risks Associated with Ambient Air Toxics in U.S. Metropolitan Areas, 114(3) Env'tl. Health Perspectives 386 (2006).
10. Nat'l Research Council, Nat'l Acad. of Sciences, *Science and Decisions: Advancing Risk Assessment* (2009). http://www.nap.edu/catalog.php?record_id=12209.
11. Nat'l Acad. of Sciences, *Phthalates and Cumulative Risk Assessment: The Tasks Ahead* (2008).
12. Office of Env'tl Health Hazard Assessment, "Air Toxics Hot Spots Risk Assessment Guidelines: Technical Support Document for Exposure Assessment and Stochastic Analysis, Scientific Review Panel Draft," Cal. EPA (June 20, 2012), http://oehha.ca.gov/air/hot_spots/SRP/index.html.

13. Office of Env't'l Health Hazard Assessment, California Communities Environmental Health Screening Tool (CalEnviroScreen 1.0), Cal. EPA (April 2013), <http://oehha.ca.gov/ej/ces042313.html>.
14. Office of Env't'l Health Hazard Assessment, Technical Support Document for Cancer Potency Factors: Methodologies for Derivation, Listing of Available Values, and Adjustments to Allow for Early Life Stage Exposures, Cal. EPA (May 2009), http://oehha.ca.gov/air/hot_spots/tsd052909.html.
15. Office of Env't'l Health Hazard Assessment, Appendix J: "In Utero and Early Life Susceptibility to Carcinogens: The Derivation of Age-at-Exposure Sensitivity Measures," Cal. EPA (May 2009), http://oehha.ca.gov/air/hot_spots/tsd052909.html, http://oehha.ca.gov/air/hot_spots/2009/AppendixJEarly.pdf.
16. Office of Env't'l Health Hazard Assessment, "Cumulative Impacts: Building a Scientific Foundation," Cal. EPA (Dec. 31, 2010), <http://oehha.ca.gov/ej/pdf/CIRreport123110.pdf>.
17. Office of Env't'l Health Hazard Assessment, Child-specific Health Reference Doses, Cal. EPA (June 22, 2009), http://oehha.ca.gov/public_info/public/kids/chrdtable.html
18. Dawn Reeves, Sierra Club Calls For EPA To Address Cumulative Impacts Under NEPA, Inside EPA, Vol. 33, No. 5 (Aug. 31, 2012).
19. James L. Sadd *et al.*, Playing It Safe: Assessing Cumulative Impact and Social Vulnerability through an Environmental Justice Screening Method in the South Coast Air Basin, California, 8 Int'l Journal of Env'tl. Research and Pub. Health 1441-1459 (2011).
20. Elizabeth Shogren & Robert Bennincasa, "Baton Rouge's Corroded, Overpolluting Neighbor: Exxon Mobil," Nat'l Pub. Radio, (May 30, 2013, 4:29 PM), <http://www.npr.org/2013/05/30/187044721/baton-rouge-s-corroded-overpolluting-neighbor-exxon>.
21. Letter from Pamela Shubat, Chair, Children's Health Protection Advisory Committee, to Lisa Jackson, Administrator, EPA (Oct. 21, 2010), http://yosemite.epa.gov/oehp/ochpweb.nsf/content/CHPAC_NRC_Report.htm.
22. Sierra Club, "The State of Detroit's Environment: An Initial Assessment Using the Framework of Environmental Justice (2013).
23. Letter from Sierra Club North Star Chapter to William Lynott, Minnesota Pollution Control Agency, (on file with author).
24. Jason Su *et al.*, *An Index for Assessing Demographic Inequalities in Cumulative Environmental Hazards with Application to Los Angeles, California*, 43(20) Env'tl. Sci. Tech. 7626-7634 (2009)).

25. U.S. EPA, “Report of the Task Group of the Children’s Health Protection Advisory Comm. on America’s Children & the Env’t,” 3d Ed. (2010)
26. U.S. EPA, Sci. Advisory Bd., Review of EPA’s draft entitled, “Risk and Technology Review (RTR) Risk Assessment Methodologies: For Review by the EPA’s Science Advisory Board with Case Studies – MACT I Petroleum Refining Sources and Portland Cement Manufacturing,” EPA-SAB-10-007 (May 2010).

For additional reference, commenters have also attached a bibliography on cumulative impacts and a bibliography on environmental justice, prepared by the Coalition For A Safe Environment, for EPA’s review and consideration.

APPENDIX C: SCIENTIFIC AND POLICY DEVELOPMENTS

Summary of Major Developments Relevant to Children's Health Risk and Environmental Justice

In recent decades, many major scientific and policy developments have occurred, all directing that the federal government – and, in particular, EPA – must fully account for health risk to children due to early-in-life exposure, and for the need to consider and provide environmental justice. Science now shows that “[e]nvironmental contaminants can affect children quite differently than adults, both because children may be more highly exposed to contaminants and because they may be more vulnerable to the toxic effects of contaminants.”¹³⁰

In 1993, the National Research Council published *Pesticides in the Diets of Infants and Children*, finding that children are not little adults, and have greater exposures and susceptibility.¹³¹

In 1994, President Clinton signed Executive Order 12898 on Environmental Justice.¹³²

In 1996, Congress enacted the Food Quality Protection Act and the Safe Drinking Water Act amendments, which explicitly require consideration of the susceptibility of children and due to early exposure.¹³³ This same year, EPA announced a new National Agenda to Protect Children's Health.

In 1997 the President issued the Children's Environmental Health Executive Order (No. 13045) on the need to address risks to children.¹³⁴

¹³⁰ U.S. EPA, “America's Children & the Env't,” 3d Ed. at 8 (2013).

¹³¹ Nat'l Research Council, “Pesticides in the Diets of Infants and Children” (1993); see also Hugh A. Barton *et al.*, *Assessing Susceptibility from Early-Life Exposure to Carcinogens*, 113(9) *Env'tl. Health Perspectives* 1125 (2005); Dale Hattis *et al.*, *Age-Related Differences in Susceptibility to Carcinogenesis: a Quantitative Analysis of Empirical Animal Bioassay Data*, 112(11) *Env'tl. Health Perspectives* 1152 (2004).

¹³² Exec. Order No. 12898, 3 C.F.R. 859 (1995), *reprinted as amended* in 42 U.S.C. § 4321 (1998).

¹³³ 21 U.S.C. § 346a(b)(2)(C) (requiring that, in taking certain actions on pesticides “an additional tenfold margin of safety for the pesticide chemical residue and other sources of exposure *shall be applied for infants and children to take into account potential pre- and post-natal toxicity and completeness of the data with respect to exposure and toxicity to infants and children*”) (emphasis added); 42 U.S.C. § 300g-1(b)(1)(C) (requiring that, in selecting unregulated contaminants for consideration, EPA “shall take into consideration, among other factors of public health concern, the effect of such contaminants upon subgroups that comprise a meaningful portion of the general population (such as *infants, children, pregnant women*, the elderly, individuals with a history of serious illness, or other subpopulations) that are identifiable as being at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population”) (emphasis added); *id.* § 300j-18(a)(1) (requiring EPA to “identify groups within the general population that may be at greater risk than the general population of adverse health effects from exposure to contaminants in drinking water. The study shall examine whether and to what degree *infants, children, pregnant women*, the elderly, individuals with a history of serious illness, or other subpopulations that can be identified and characterized are likely to experience elevated health risks, including risks of cancer, from contaminants in drinking water. . . .”) (emphasis added).

¹³⁴ Exec. Order 13045, 62 Fed. Reg. 19,885 (Apr. 21, 1997).

In 2000, EPA first published *America's Children and the Environment*, which it has since updated.¹³⁵

In 2006, EPA issued new guidance on protecting children from environmental health risks as part of the rulemaking process.¹³⁶ Among other things, this Guide, at 8, recognized the problem of disproportionate risk to children because they may be more sensitive to pollution and exposed at a higher rate than adults because of their developmental stage. This Guide also recognized the need “to think in terms of the broad range of early life, pre-natal and post-natal, environmental exposures that may affect the incidence of disease or alter development.”¹³⁷

In 2008, EPA updated the Child-Specific Exposure Factors Handbook.¹³⁸

In 2008 and 2009, the major National Academy of Sciences reports – *Science and Decisions: Advancing Risk Assessment* (“NAS 2009”), and *Phthalates and Cumulative Risk Assessment: The Tasks Ahead* (2008) – were released, re-emphasizing the importance of addressing real-world risk to children and cumulative health risk.

In 2009, EPA Administrator Jackson declared environmental justice and children's health priorities.

In 2010, EPA Administrator Jackson issued *EPA's Action Development Process: Interim Guidance on Considering Environmental Justice During the Development of an Action*.¹³⁹

In 2011, EPA Administrator Jackson announced Plan EJ 2014 including rulemaking and science goals to finally achieve the goals of the 1994 Environmental Justice Executive Order.¹⁴⁰ EPA continues to work to issue guidance that will advance these goals.

In addition, in recent years, EPA's Children's Health Protection Advisory Committee has recommended addressing the developmental origins of adult disease that come from childhood exposure to air pollution and other environmental contaminants.¹⁴¹ Similarly, the Committee has

¹³⁵ U.S. EPA, “American's Children and the Env't” (3d ed. 2013), <http://www.epa.gov/opeedweb/children/publications/index.html>.

¹³⁶ U.S. EPA, “Guide to Considering Children's Health When Developing EPA Actions: Implementing Executive Order 13045 and EPA's Policy on Evaluating Health Risks to Children” (2006), [http://yosemite.epa.gov/oceph/ochpweb.nsf/content/ADPguide.htm/\\$File/EPA_ADG_Guide_508.pdf](http://yosemite.epa.gov/oceph/ochpweb.nsf/content/ADPguide.htm/$File/EPA_ADG_Guide_508.pdf).

¹³⁷ *Id.*

¹³⁸ U.S. EPA, Child-Specific Exposure Factors Handbook (2008).

¹³⁹ U.S. EPA, “EPA's Action Development Process: Interim Guidance on Considering Environmental Justice During the Development of an Action” (2010). <http://www.epa.gov/compliance/ej/resources/policy/ej-rulemaking.html>.

¹⁴⁰ Plan EJ 2014, U.S. EPA, <http://www.epa.gov/compliance/ej/plan-ej/index.html>.

¹⁴¹ U.S. EPA, *Report of the Task Group of the Children's Health Protection Advisory Comm. on America's Children & the Env't*, 3d Ed. (2010)., [http://yosemite.epa.gov/oceph/ochpweb.nsf/content/ACETask.htm/\\$file/ACE%20Task%20Group%20Report.pdf](http://yosemite.epa.gov/oceph/ochpweb.nsf/content/ACETask.htm/$file/ACE%20Task%20Group%20Report.pdf).

recommended that EPA incorporate a more robust analysis of childhood and pre-natal exposure to environmental contaminants into its risk assessment method.¹⁴²

The Science Advisory Board (SAB) has also urged EPA to address the greater risk to children from hazardous air pollution.¹⁴³ As the SAB further explained: “California’s Office of Environmental Health Hazard Assessment (OEHHA) has very recently updated its methodology in ways that could affect the development of RfC and URE (unit risk estimate) values. EPA should examine these developments to make sure that the RTR process adequately covers children’s risks.”¹⁴⁴

Finally, during the last decade, OEHHA has also released a number of groundbreaking scientific determinations and protocols to consider and address children’s health, early life exposure, and cumulative impacts, which are cited in this document, above, and are all available at <http://oehha.ca.gov/>.

¹⁴² Letter from Pamela Shubat, Chair, Children’s Health Protection Advocacy Council, CHPAC to Lisa Jackson, Administrator, U.S. EPA, (Oct. 21, 2010) (“CHPAC recommends that EPA staff scientists participating in the upcoming discussions bring the concern of early life stage exposure and sensitivity to the conversations that will take place concerning optimizing risk assessment practice.”), http://yosemite.epa.gov/oehpweb.nsf/content/CHPAC_NRC_Report.htm.

¹⁴³ U.S. EPA, Sci. Advisory Bd., Review of EPA’s draft entitled, “Risk and Technology Review (RTR) Risk Assessment Methodologies: For Review by the EPA’s Science Advisory Board with Case Studies – MACT I Petroleum Refining Sources and Portland Cement Manufacturing, EPA-SAB-10-007 (May 2010), at 7 (stating that “an overarching concern with the Agency’s chronic inhalation exposure estimates is that children’s exposures do not appear to have been adequately addressed”); *see also id.* at 34 n.13 (“In particular is the question of whether the interindividual variability factor for non-carcinogens and the standard cancer unit risk derivation adequately covers children. If it does not, it is a potentially significant uncertainty given the greater intake rate of children via inhalation and sensitivity to carcinogens and other toxicants.”).

¹⁴⁴ *Id.*

APPENDIX D: CHILD-SPECIFIC NON-CANCER CHART

Non-Cancer Health Risk: Comparison of Cal. EPA OEHHA Child-specific health reference values to U.S. EPA reference values

Chemical	OEHHA Child-health Reference Dose (chRD) or value*	U.S. EPA Chronic Oral Reference Dose (RfD)	Difference Between OEHHA and U.S. EPA	Order of Magnitude Difference between OEHHA and U.S. EPA
Atrazine	0.006	0.035	6	1
Cadmium	0.000011	0.0005 (water)	45	1
		0.001(food)	91	2
Chlordane	0.000033	0.0005	15	1
Chlorpyrifos	0.0001	0.0003	3	-
Deltamethrin	0.0001	0.01	100	2
Heptachlor	0.00003	0.0005	17	1
Heptachlor epoxide	0.000013	0.000013	1	-
Manganese	0.03	0.14	5	1
Methoxychlor	0.00002	0.005	250	2
Nickel	0.011	0.02	2	-
Pentachlorophenol	0.001	0.005	5	-
Lead	OEHHA action level*	<i>EPA has not updated its action levels; CDC has reduced (2012).</i>		
	1 (as a blood-level increase)	10 (5 - as a total)	10 (5 - as a total)	1

* All units are in mg/kg-day except lead which is in µg/dL blood. The lead value is not a dose. For lead this is a health benchmark indicating the increase in a child's blood lead concentration showing protective action is needed.

Source: Office of Environmental Health Hazard Assessment (OEHHA), Cal. EPA
(Table of all child-specific reference doses finalized as of 06/22/09,
http://oehha.ca.gov/public_info/public/kids/chrddtable.html)

Appendix E: **STORIES FROM COMMUNITIES OVERBURDENED BY POLLUTION**

Cynthia Babich, Del Amo Action Committee, Torrance , CA (Los Angeles County):

I've been working in my community for 23 years. For us, it's easy to see that we have multiple impacts, but the EPA has yet to take action.

I work in an old industrial WWII complex in a part of unincorporated Los Angeles County. Most of the people in the community are Latino and comprised of multigenerational immigrants. We are surrounded on three sides by industry: Dow Chemical Plastics and Exxon Mobil are on a list of top 10 emitters in the country. There are two Superfund sites—some of the more toxic sites in the country. One of the sites is Montrose Chemical Corporation of California,¹⁴⁵ at one time the largest manufacturer of DDT in the county. Montrose disposed of its manufacturing waste in a drainage ditch that ran alongside the plant property. DDT contaminated the entire community, because they used to grind it outside, and the wind blew it right into the community. Most of it settled into people's attics 50, 60 years ago, and it continues to poison them to this day. Next door to Montrose is the other Superfund site, Del Amo, which was a synthetic rubber plant during WWII. When they were making tires for the war planes, they would take the waste product and dump it into unlined pits, contaminating the soil and groundwater. The vapors from the soil escape into buildings and homes today.

We also have three groundwater plumes that are all being looked at separately because they are from different facilities. We have the plumes coming from the two Superfund sites, and a huge one from Exxon Mobil refinery and another one from Jones Chemical, a chlorine transfer station. If there was a hole, someone filled it—whether it was DDT, construction debris, or metal slag. Not to mention, this community is adjacent to two freeways. We've been calling for these toxic sources to be looked at combined for years.

When I moved into my neighborhood, I looked for everything except toxic waste sites. Soon after moving, I started getting fistulas, and I had heart problems and trouble breathing, and it took so long for the doctors to figure out what was wrong. At one point, my husband I thought I was going to die. We didn't know that the house we had moved into abutted a waste pit site and technical grade DDT was buried in our backyard. All the time I was thinking, "People get sick—it's the law of averages." When I was home healing from one of my surgeries, I found out about the Superfund sites. And then I got upset. This wasn't the law of averages, I was being poisoned. People knew about this and did nothing. Not long after this discovery, doctors found a dermoid cyst on my ovary and I had to get it removed. Now, I am unable to have children. When I go into the neighborhood to work, my face breaks out—I always get rashes. My husband operates his machinery repair business, and now gets violently ill. It's difficult for me to watch someone to get sick like that, especially my husband.

Most people in this community are very concerned about our health. Our group has done our own studies by going door-to-door, and found that individuals in 1 in 4 homes have severe asthma problems. The community has higher than state average rates of asthma and respiratory issues. The symptoms that most people reported were bloody noses, rashes, vomiting, miscarriages, and joint pains. Twin boys were born in 1994 to a family born near the Montrose Superfund site. One was born with hypospadias, the other twin has developmental problems. One family had an infant die, and not long after, another was born without a brain stem.

¹⁴⁵ <http://industriallosangeles.org/sites/montrose.html>

Until the EPA measures the cumulative impacts of pollution, my community will suffer. People aren't asking for much—they just want to be able to live in our community, breathe air, put a glass under the tap and not want to think about whether it's contaminated or not.

It is upsetting that no one is looking at the cumulative impacts when all of this is happening and has happened to us.

Northern Delaware

Amy Roe, Conservation Chair, Sierra Club, Delaware Chapter

In northern Delaware, where I live, the air is unsafe to breathe. Ozone action days are commonplace and toxic releases from the numerous chemical plants and the nearby oil refinery occur regularly. The groundwater in eastern New Castle County has been contaminated, and just this month a drinking water well near the town of New Castle was closed because of 1,4-dioxane from a nearby Superfund site. The fish in our rivers and streams are unsafe to eat and most of the water bodies in New Castle County have a "no consumption" advisory. We are forced to endure the legacy pollution from past manufacturing and hazardous waste disposal, while new pollutants are added to our environment from existing facilities. This month I learned that my city has been negotiating to build a 248 MW power plant at the edge of my neighborhood, just a few blocks away, and a stone's throw from the playground where I played on the swings as a child. Past and present threats to public health are being added to with plans for future development. It's hard to keep up with the extent of the risk in the heart of America's chemical industry.

The regulatory oversight of air and water pollution needs dramatic improvement. The response that I have received from state regulators for air pollution concerns that made me ill and nauseated during the restart of the Delaware City Refinery was that the "air" I am breathing is just "air." The air that I am breathing is not just air! It is filled with fine particles and toxic vapors from many industrial facilities including, but not limited to, the refinery, Formosa Plastics, FMC Biopolymer, AI Dupont Sulfuric Acid Regeneration Plant, Kuehne Chemical Company, DuPont Edgemoor and the DuPont Experimental Station.

The EPA has the ability to update its approach to use the best available scientific information for cumulative risk, including under the Clean Air Act. It is the cumulative risk from multiple sources of exposure that concerns me most. Each plant and factory has mastered the art of blaming the others nearby for foul smells and pollution. Because we are surrounded by so many factories and chemical plants, no one takes responsibility for air pollution, water pollution, or the contamination of our fish. The cumulative risk of exposure is not used to cap pollution in our area, and new projects seem to pop up all the time. State regulators have bought into this passing of the blame, by allowing permits for increasing amounts of pollution because, as individual sources, they are seen as small amounts that are insignificant to the whole. Our regulators do not have to take a holistic approach, so they do not.

Science-based standards for cumulative risk assessment would result in the dramatic improvement of our lives and health. It would dramatically improve the way that pollution standards are assessed to consider the health impacts to our communities as part of the regulatory process. We can take steps to eat right, to exercise, and to be as healthy as possible, but we cannot take individual steps to shield ourselves from the polluted landscape that surrounds us. We need your help to improve our lives. Please assess the full impact of pollution on our communities and increase our protection.

Midlothian, Texas

As the self-proclaimed cement capitol of Texas, Midlothian is home to three major cement manufacturing facilities. Texas Industries (TXI), Holcom, and Ash Grove contaminate the air with a combined yearly total of 57 million pounds of mercury, nitrogen oxides, sulfur dioxide, and other dangerous chemicals. Gerdau Ameristeel, a large steel plant, is adjacent to TXI's cement plant. Some of the fuel sources used by these plants were approved without an opportunity for public comment or requirements for testing emissions and cumulative impacts.

The cumulative effects of the aforementioned sources are of great concern to community residents who are exposed to the resulting combined air contaminants.

After moving to Midlothian, Texas in July 2001, "my three children and I got sick," says former resident Alex Allred:

"Within a few months of our move, my two-year old son was constantly in and out of the hospital—first, with bronchitis, then pneumonia, then double bronchitis. It was not until I began speaking to school nurses, other parents, and at last, a physician at Children's Medical Center in Dallas that we understood. The air in Midlothian was literally harming our child. My son's elementary school would go on to be named in the upper 1% of most toxic elementary schools in the nation. After 12 years of one health crisis after the next, we relocated to Waxahachie, Texas, only 20 miles south of Midlothian. Within a week of moving, I noticed dramatic changes to Tommy's health, and within two months of moving, my son was off half of his medicines. I would say it's a miracle but it is not. It is a sad reality of where we were living, and now, we can all breathe easier—no pun intended. Not only are we saving Tommy's life by moving away from the cement plants but we are saving money as well—I spent roughly \$10,000 on medical expenses while living in Midlothian. Cement plants often talk about the economics of 'business as usual,' forgetting the cost of human life and suffering."

Scientific data support residents' concerns. The Agency for Toxic Substances and Disease Registry (ATSDR), which has been evaluating health risks in Midlothian, stated in its recent report entitled "Assessing the Public Health Implications of the Criteria (NAAQS) Air Pollutants and Hydrogen Sulfide" that "...sufficient information exists to warrant concern for multiple air pollutant exposures to sensitive individuals" In its study, ATSDR found that ozone exposure in recent years has reached harmful levels for active children and adults, and people with asthma. Additionally, ATSDR emphasized a need for more scientific research in order to fully understand the cumulative impacts of multiple pollutants.

Assessing cumulative impacts is also important to individuals downwind of the Midlothian plants.

Dallas-Fort Worth area resident Becky Bornhorst is a volunteer for Downwinders at Risk:

"My family enjoys outdoor activities such as sailing, canoeing, and swimming in Texas lakes and rivers, but such recreation is already curtailed by the fact that Texas has fish advisories or bans on 22 bodies of water." (Joe Poole Lake, where her family enjoys recreation activities was recently found to have a mercury level of .5ppm, just under the Texas Department of Health warning level of .7ppm.) "Mercury poisoning is a threat to me and my family when we are at the lake, the supermarket, or just breathing when the wind is blowing from the wrong direction," says Bornhorst. "We cannot escape it."

Houston Ship Channel, Houston, TX:

Since 1988, Air Alliance Houston has worked to reduce air pollution in the Houston region and protect public health and environmental integrity through research, education, and advocacy. Air Alliance is the Houston region's leading environmental health and air quality nonprofit. Air Alliance's vision is clean air so our economy, quality of life, and children can thrive.

A significant amount of the organization's work has focused on environmental justice issues in communities along the Houston Ship Channel. The Ship Channel hosts one of the largest concentrations of petrochemical facilities in the world, which in addition to the area's refineries, other industrial facilities, and high traffic of shipping barges and diesel trucks, leads to poor regional air quality and complex health and environmental challenges.

As Adrian Shelley, Executive Director of Air Alliance Houston, explains, "The communities of the Ship Channel disproportionately suffer the impacts and are not enjoying the opportunities of these chemical facilities."

The negative health impacts on these communities, which include overwhelmingly low income communities of color, are undeniable. A study of nearly 300 residents by Air Alliance in partnership with the Healthy Port Communities Coalition conducted between March and April 2013 found that communities near the Port of Houston experience higher than average rates of allergies, cancer, and respiratory illnesses. In comparison to state statistical averages, residents near the Port of Houston reported rates of asthma twice as high in adults and children, and reported rates of cancer ten times as high. Eighty-six percent of respondents expressed concern about pollution from local refineries in the survey, and 89% of respondents expressed concern about the effects of pollution on their health. Problematically, 54% of respondents did not have health insurance and nearly half of residents have an unemployed household member. The combination of high pollution exposure and lower access to health care in this community shows the need for EPA to look at and reduce the cumulative impacts these environmental justice communities face.

Port Arthur, Texas

Port Arthur, a small town with just under 60,000 residents located 90 miles south of Houston on the Gulf Coast of Texas, hosts a large number of industrial sources that release some of the harshest toxic contaminants for public health. Heavy metals and toxic chemicals are released into the air by the Valero Port Arthur Refinery, Huntsman Petrochemical, and the Chevron, as well Flint Hills Resources LLC. Nearby in East Port Arthur, Total Petrochemicals USA, Premcor Refining, and BASF Fina Petrochemicals. Motiva Enterprises, owned jointly by Shell Oil Products and Saudi Refining, Inc. and located in Port Arthur, is the largest oil refinery in the United States.

Right across the fence-line from Motiva Enterprises, are the residents of Carver Terrace, a local community on the West Side of Port Arthur. Largely African-American and low income, the approximately 200 families of this community have long experienced the symptoms of the airborne toxic chemicals, marked by marginally higher incidences of asthma, reparatory illnesses, and cancer than state statistical averages.

“People are breathing benzene out here,” says Hilton Kelley. “That’s a known carcinogen. They’re breathing sulfur dioxide, a toxin that messes with your respiratory system—people call that the rotten-egg smell. Clean, breathable air is a basic human right the folks out here have been deprived of.”

Hilton Kelley is the Founder and CEO of Community In-Power & Development Association, Inc. (CIDA). Kelley spent most of his childhood and currently lives in the town of Port Arthur.

Describing an example experience, “The odors from the refineries were pungent,” Kelley recalled in an interview with Oprah Magazine in 2011.¹⁴⁶ “There was a large number of people sick with cancer and respiratory problems. Kids were just running, unsupervised, in the streets. It seemed all anybody could do was pray.”

This disparate impact of negative health effects related to industrial pollution is partly a function of inequality. Refineries have expanded their profits and kept the price of gas low in part by refusing to invest in pollution control equipment at the expense of the health of local communities.

To bring awareness to these inequalities, Kelley and CIDA began to challenge the regulatory agencies, and the policies and environmental violations of the plants that loom over the community. Over the last decade, Kelley has helped set Port Arthur’s West Side neighborhood on a healthier, more sustainable path. It has been a long road – and still is, for those living next door to some of the petrochemical facilities and refineries that supply other parts of the United States, but Kelley pushes on. “These are my people,” said Kelley. “They were my teachers, my coaches. They go to my church. These could be my own kids. I really need to be here.”

A serious problem Kelly and CIDA have long faced is the fact that it is so difficult to get anyone to look at the whole impact of all of the polluting sources in Port Arthur, TX. Although EPA recently named Port Arthur an “Environmental Justice Showcase Community,”¹⁴⁷ local residents are still waiting for meaningful, lasting relief from petrochemical flaring and other kinds of pollution that combine each day in their local air and environment.

Louisiana Bucket Brigade, Anna Hyrbyk

We work with communities that live on fence-lines of oil and gas industry throughout the state. Our mission is to use grassroots action to create informed, sustainable communities that are free from industrial pollution. The “Bucket” is an EPA-approved bucket kit that tests for organic compounds. This is similar to something EPA regulators normally use. We train communities to use the buckets, and we send off the air samples into labs.

Right now we are active in two communities that are surrounding refineries: Exxon Mobil refinery in Baton Rouge and Calumet Lubricants refinery in Shreveport. Both of those communities are large urban areas. Shreveport has 56,000 people living within two miles of the plant. Baton Rouge has 59,000. In both cases, the large majority of the population is African American and the poverty level is very high. In both communities, roughly 50% of children are living in poverty. Parish-wide, child poverty is nearly half of that.

The individuals that work in the plant do not live anywhere near these facilities. If people in the community are able to secure the jobs in these factories, they are contracting jobs that are only temporary,

¹⁴⁶ <http://www.oprah.com/spirit/Environmental-Activist-Hilton-Kelley-Port-Arthur-Texas>.

¹⁴⁷ <http://www.epa.gov/compliance/ej/grants/ej-showcase.html>

offering low pay and no health benefits. These temporary jobs are also the most dangerous. For example, they might be asked to clean a tank, but are not told what was in the tank, or given any protective gear to clean it in. Even though the wages are comparatively high, they tend to leave after not very long, because they soon learn that they are putting their lives at risk.

People in these industrial communities are very concerned about their health. People are most concerned about respiratory issues and cancer. For people living near these facilities, whenever there is a strong odor being emitted, it's pretty much a given that this will cause an associated health issue. Because of this, people are afraid to go outside. Many times, people have reported that they've been out barbecuing on holidays, and yellow or black soot has fallen out of the air and all over the food and their kids. The younger kids that can't stand to stay inside all day often walk through the neighborhood with their shirts over their noses. For more details, see the reports available from the iWitness Pollution Map, <http://oilspill.labucketbrigade.org>.

It is very important for EPA to start assessing the cumulative impacts of multiple sources, particularly in the city of Baton Rouge. Currently, they are permitting by facility and not looking at the cumulative impact of the 19 chemical plants all being in one area, and with 59,000 people surrounding them. When you're only looking at one facility or one chemical at a time, you're never going to be able to protect the people who live around these types of complexes from the full impact of all of the sources and all of the pollution.

Cancer Alley, Louisiana:

The 80 mile stretch of Mississippi River between Baton Rouge and New Orleans, once revered by Mark Twain, is now dubbed "Cancer Alley."¹⁴⁸ This Louisiana area has the highest concentration of manufacturers, users, and disposers of toxic chemicals in the nation.¹⁴⁹ Hundreds of industrial plants are located near low-income communities of color and have been spewing out dangerous air toxins for decades.¹⁵⁰ The residents experience high rates of asthma, cardiovascular disease, diabetes, infant mortality, and cancer, including rare childhood cancers.¹⁵¹ But the struggle to alleviate the strain of the cumulative effects of the pollution is continually impeded.

One iconic example is Convent, a mostly African American community, where 13.8% of the residents live below the poverty line.¹⁵² Convent is on the East bank, and is the site of a new Nucor Steel plant, currently under construction. Sierra Club has raised a number of concerns during the permitting process about the impact of this plant on the community. Convent also is near the Motiva 'Donaldsonville Plant; a 'mid-stream' grain transfer facility; an Occidental Chemical Corporation facility producing Chlorine; and 2 large Fertilizer plants: one directly across the Mississippi River, and one downstream about 1.5 miles, which according to EPA documents, "may contain significant quantities of naturally occurring radioactive materials (NORM)."

¹⁴⁸ H2G2, *supra*, note 49

¹⁴⁹ Kluber, "Cancer Alley and Infant Mortality," *supra*, note 50

¹⁵⁰ H2G2, *supra* note 49.

¹⁵¹ Kluber, "Cancer Alley and Infant Mortality," *supra* note 50, at 1.

¹⁵² U.S. Census Bureau, *State and County QuickFacts: Convent, Louisiana*, U.S. Department of Commerce, http://factfinder2.census.gov/faces/nav/jsf/pages/community_facts.xhtml.

Subjected to a constant barrage of industrial air pollution, in 1996 the tiny town banded together when a Japanese company announced the opening of yet another polyvinyl chloride (PVC) plant.¹⁵³ Shintech, Inc. had applied for an air permit to build a \$700 million PVC plant, which included three chemical factories and an incinerator; the permit would allow Shintech to release over 600,000 pounds of air pollutants annually.¹⁵⁴ Among these pollutants would be dioxin, a highly toxic substance known to cause reproductive and developmental problems, and increase the risk of cancer, diabetes, and heart disease.¹⁵⁵ Shintech would also be receiving nearly \$130 million in subsidies from Louisiana, while providing only 165 jobs, most too technical for the surrounding poorly educated communities.¹⁵⁶

Tulane University Law Clinic filed a Title VI complaint on behalf of the community affected by the Shintech Plant, and in 1999, Shintech rescinded its plans to build a plant in Convent.¹⁵⁷ This victory was short-lived, however, when just over a decade later, Nucor Steel succeeded in building a facility in Convent.¹⁵⁸ The iron-producing facility was permitted to release fine particulate matter, benzene, carbon dioxide, carbon monoxide, nitrogen oxide, sulfur dioxide, and ammonia into the air.¹⁵⁹

Like Convent, the cities in “Cancer Alley” have been in constant struggle to strengthen protection for local communities, but are too often blocked by those who consider industrial development more important than local health. Without appropriate studies of the cumulative health impact on the local community, the residents will continue to be powerless to halt any further pollution encroachment.

The predominantly African-American neighborhoods of North Baton Rouge face the combined impact of point and non-point sources of pollution, and they need the permitting process to fully account for these impacts, as well as the additional burden caused by petro-chemical plant accidents.¹⁶⁰ In updating EPA policy on assessing the impacts of pollution on communities, there also needs to be analysis of emissions from transportation for the petrochemical plants, which also add significant pollution.

North Baton Rouge and Convent are joined by many communities and neighborhoods along the Mississippi River in Louisiana’s Cancer Alley. The following are a few:

1. Plaquemine, LA, just a few miles down river on the west bank, is located near one of the largest Dow Chemical facilities in the United States. In addition to toxic air pollution, this plant has

¹⁵³ Louisiana Env’tl. Action Network and Greenpeace USA, *Shintech Environmental Racism*, CorpWatch (Sept. 1, 1999), <http://www.corpwatch.org/article.php?id=989>.

¹⁵⁴ *Id.*

¹⁵⁵ National Institute of Env’tl Health Sciences, *Dioxins*, <http://www.niehs.nih.gov/health/topics/agents/dioxins/#geninfo> (last reviewed Jun. 5, 2013).

¹⁵⁶ *Shintech Environmental Racism*, *supra* note 6.

¹⁵⁷ *Id.*

¹⁵⁸ Tegan Wendland, *Nucor Breaks Ground on Plant in St. James Parish*, WRKF (Mar. 7, 2011), <http://archives.wrkf.org/batonrouge&newsID=980>.

¹⁵⁹ Jim Motavalli, *Shintech: The Battle Continues*, E Magazine, Mar. 1, 1999, *available at* <http://www.highbeam.com/doc/1G1-54233048.html>.

¹⁶⁰ Common Ground report (La Bucket Brigade & United Steelworkers 2012) is an analysis of refineries’ reports to the state. The goal is to identify trends of problems so that accidents can be reduced. With over 200,000 people living within 2 miles of a refinery in Louisiana, there is a clear need to reduce accidents and eliminate exposure to hazardous chemicals; ExxonMobil Baton Rouge plant inspection report raises concerns; activists request full accounting of June benzene spill 12 Dec 2012 Times-Picayune; ExxonMobil Baton Rouge safety issues ‘prevalent throughout refining sector.’ United Steelworkers 27 February 2013 Times-Picayune.

serious ongoing ground water contamination issues, which impact a nearby drinking water well in a trailer park. Shintech PVC plant, and a host of others are within a 5 mile radius of the city.

2. St. Gabriel, located on the East bank, neighbors the only plant producing atrazine in the United States, and has a history of environmental-related health issues.
3. Geismar, also on the east bank, has a petro-chemical complex with 15 different plants, including BASF, Shell Chemical, and Williams Chemical, which had a major chemical accident just 2 weeks ago.^{161 162}
4. Donaldsonville, on the west bank, has a number of ammonia plants, including the CF Industries plant, which had a major accident last week¹⁶³. The town's elementary school is less than ¾ of a mile from this plant.
5. Garyville and Loins, both on the East bank, are next door to the large Marathon Refinery. Lions, once a small community of freed slaves, has been largely displaced due to resulting impacts.
6. Taft and Hahnville, both on the west bank, are alongside Dow Chemical; Occidental Chemical Corporation; Waterford III, a nuclear power plant; Waterford I & II, natural gas power plants; Gypsy I & II, also natural gas power plants. Directly across the Mississippi River is the NORCO chemical complexes of Shell Oil, Motiva Refinery, and Valero Refinery.
7. Norco, located on the east bank, is near a Shell Chemical Plant, Motiva Refinery, and Valero Refinery. The community environmental justice struggles are well documented in two books: Diamond: A Struggle for Environmental Justice in Louisiana's Chemical Corridor Steve Lerner, and Night Fire: Big Oil, Poison Air, and Margie Richard's Fight to Save Her Town.
8. Kenner, on the east bank, has the Cytec Industries plant, which was formerly called American Cyanamid Company. This plant injects by a 'deep well,' the largest amount of chemical waste in Louisiana.
9. Chalmette is on the Eastbank below New Orleans, and has the ExxonMobil and Valero Refinery plants there. These plants have had serious spills over the last 10 years. The largest by volume was over one million gallons of crude oil by Murphy Oil, now Valero, during Hurricane Katrina. The ExxonMobil plant has had a series of leaks. A judge ruled in a Clean Air Act lawsuit, that the plant had violated the Clean Air Act 27,000 times in ten years. Earlier this year, there were a series of leaks.¹⁶⁴
10. Chemical plant leaks during hurricanes add to the overall chemical exposure of residents of coastal Louisiana.¹⁶⁵

¹⁶¹ "Geismar explosion and fire released more than 62,000 pounds of toxic chemicals, company reports" 26 June 2013 Times-Picayune

¹⁶² "'Cancer Alley' is on fire—where were the watchmen?" <http://www.stuarthsmith.com/cancer-alley-is-on-fire-where-were-the-watchmen/#sthash.DhyIZ925.dpuf>

¹⁶³ "Donaldsonville fertilizer plant blast leaves one dead, seven injured," 14 June 2013 Times-Picayune

¹⁶⁴ "ExxonMobil Chalmette Refinery likely cause of odor in city on Wednesday, Coast Guard says," 4 April 2013 Times-Picayune

¹⁶⁵ "Oil, chemical, coal releases during Hurricane Isaac should have been avoided, environmental groups say," 6 Sept 2012 Times-Picayune

Camden, New Jersey:

Camden, New Jersey once boasted a booming manufacturing industry. It is now known as the poorest city in the nation, with 38% of the population living below the poverty line.¹⁶⁶ Consisting primarily of African Americans and Latinos, this community is also plagued with high rates of asthma and cancer, including the second highest rate of cancer in the state and eighth in the nation.¹⁶⁷ The Camden area is home to over 100 toxic waste sites, many of which are localized around an impoverished neighborhood of Camden called Waterfront South.¹⁶⁸ Waterfront South encompasses 20% of the city's contaminated sites, and houses more than double the amount of pollution-generating facilities than the average New Jersey neighborhood.¹⁶⁹ The air toxins generated by these facilities include arsenic, lead, nickel, manganese, and cadmium, as well as fine particulate matter.¹⁷⁰ These air pollutants are often associated with respiratory illnesses, learning disabilities, and cancer.¹⁷¹ Yearly, the area is also subjected to over 400 diesel ships in Camden Harbor and heavy diesel truck traffic throughout the neighborhood, adding to the overall levels of air pollution.¹⁷²

In the early 2000s, when yet another cement plant obtained a building permit from the New Jersey Department of Environmental Protection ("NJDEP"), a small local organization persuaded Camden residents to band together to throw off the yoke of air toxins that has been choking their community.¹⁷³ In 2002, at the urging of the Waterfront South residents, the NJ Department of Environmental Protection initiated a study to analyze the impact of the toxic emissions on the air quality of neighborhood.¹⁷⁴ The study confirmed that the areas contained "relatively high particulate levels."¹⁷⁵ In 2011, the Health Effects Institute reported that Waterfront South qualified as a hotspot for fine particulate matter (PM 2.5), benzene, toluene, xylenes, aldehydes and methyl tert-butyl ether.¹⁷⁶

The residents of Camden continue to be concerned about the cumulative effects of the multiple pollution-emitting facilities surrounding the area. Without further analysis of the cumulative risks of the air toxins, there is little to prevent additional facilities from opening.

¹⁶⁶ U.S. Census Bureau, *State and County QuickFacts: Camden, New Jersey*, U.S. Department of Commerce, <http://quickfacts.census.gov/qfd/states/34/3410000.html> (last updated Jun. 6, 2013). See e.g., Shoshana Guy, *America's 'Invincible' City Brought to its Knees by Poverty, Violence*, N.B.C. News (Mar. 7, 2013), http://inplainsight.nbcnews.com/_news/2013/03/07/17225824-americas-invincible-city-brought-to-its-knees-by-poverty-violence?lite.

¹⁶⁷ Rollback Campaign, *Racial Discrimination and Environmental Justice*, YouTube (Apr. 14, 2008), http://www.youtube.com/watch?v=CA4vL0bFd18&feature=player_embedded.

¹⁶⁸ *Id.*; See also, *S. Camden Citizens in Action v. New Jersey Dept. of Env't'l. Protection*, 274 F.3d 771, 774-75 (3d Cir 2001) ("Waterfront South contains two Superfund sites, several contaminated and abandoned industrial sites, and many currently operating facilities, including chemical companies, waste facilities, food processing companies, automotive shops, and a petroleum coke transfer station.")

¹⁶⁹ *Id.* at 775.

¹⁷⁰ Office of Environmental Justice, *Camden Waterfront South Air Toxics Pilot Project*, N.J. Dep't of Env't'l Protection, Division of Air Quality at 5 (2005), available at <http://www.state.nj.us/dep/ej/camden/docs/finalreport.pdf>.

¹⁷¹ *Id.* at 4, 38, 46, 75.

¹⁷² *Id.* at 21-22.

¹⁷³ Olga Pomar, *Fighting for Air*, National Housing Institute (December 2002), <http://www.nhi.org/online/issues/126/camdenair.html>.

¹⁷⁴ *Camden Waterfront South Air Toxics Pilot Project*, *supra* note 177.

¹⁷⁵ *Id.* at 5.

¹⁷⁶ Paul J. Liroy et al., *Personal and Ambient Exposures to Air Toxics in Camden, New Jersey*, Health Effects Institute at 2 (Aug. 2011), <http://pubs.healtheffects.org/getfile.php?u=659>.

Detroit, Michigan:

Michigan's most polluted zip code is 48217, located in the southwest of Detroit.¹⁷⁷ Wedged between a major highway and polluting factories, this community has acutely felt the burden of living so close to industrial plants.¹⁷⁸ The residents experience acrid odors, masses of floating dark particles, and thick layers of metallic dust that settle over the area.¹⁷⁹ The community, which is roughly 85% African American, has experienced deteriorating health due to its proximity to multiple industrial sites.¹⁸⁰ Asthma, sarcoidosis, and multiple types of cancer, including leukemia and brain cancer, have affected nearly every family in the area.¹⁸¹

Despite all this, the city continues to allow the industrial sector to expand, further elevating the level of pollution. In the past decade alone, air permits for an asphalt plant have been approved, the nearby water and sewer plant have expanded, and a composting facility was erected.¹⁸² In 2007, the community opposed the \$2-billion project to expand the Marathon Refinery and lost.¹⁸³ The State asserts that each industrial plant complies with the emissions limits, but the State fails to take into account the cumulative effects of the multiple facilities that are spewing out toxins into the air.¹⁸⁴ Although Detroit has seven state air monitors, none are located in this neighborhood, spurring the local residents to initiate their own sampling.¹⁸⁵ Their results showed high levels of lead and methyl ethyl ketone, a toxin that can irritate the lungs and affect the nervous system, in the air.¹⁸⁶ The cumulative effects of the nearby facilities must be considered in order to ascertain the level of harm associated with close proximity to these industrial sites and, ultimately, to finally bring relief to this industrial-inundated neighborhood.

Mebane, North Carolina:

Omega Wilson

West End Revitalization Association – WERA

In and around Mebane, North Carolina, there are multiple communities without access to basic amenities, such as sewage lines, paved roads, and clean drinking water.¹⁸⁷ These historic communities were established by freed slaves, and remain 85-95% African American. Over half of the population earns below \$20,000 a year.¹⁸⁸

In 1994, the City of Mebane intended to cleave these communities by charting a highway through Mebane's neighborhoods.¹⁸⁹ For an area already overburdened by leaking septic tanks and fetid

¹⁷⁷ Tina Lam, *supra*, note 39.

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ Andrea Newell, *Environmental Justice in Detroit: Hope Arises Amid Toxic Communities*, Triple Pundit (Jun. 10, 2013), <http://www.triplepundit.com/2013/06/detroit-environmental-justice/>.

¹⁸¹ 48217, *supra* note 39.

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

¹⁸⁷ Sacoby M. Wilson et al., *Use of EPA Collaborative Problem-Solving Model to Obtain Environmental Justice in North Carolina*, 1 Progress in Cmty. Health P'ship: Research, Educ., and Action 327 (2007), <http://rogersroad.files.wordpress.com/2008/05/14wilson.pdf>.

¹⁸⁸ *Id.* at 328.

¹⁸⁹ *Timeline of Obstacles and Accomplishments*, WERA <http://www.wera-nc.org/timeline.htm> (last visited Jun. 20, 2013).

drinking water, the four-lane highway would be adding an additional level of pollution from the vehicles passing through the neighborhoods. In response, local residents established the West End Revitalization Association (“WERA”) to contest the building of the highway.¹⁹⁰ In 1999, WERA filed civil rights and environmental justice complaints to the U.S. Department of Justice, asserting that the proposed highway disproportionately affected the African American communities. As a result, the plans for the highway were put on hold.¹⁹¹

Even though the community prevented the building of a highway, they still face widespread failing septic systems and contaminated water.¹⁹² The City of Mebane, while controlling the land use of these communities, continually refuses to annex the neighborhoods or provide basic amenities.¹⁹³ In 2002, WERA received a small grant from the EPA to conduct a study of the water in the African American communities.¹⁹⁴ A study of the surface water showed the presence of *E. coli* and *Enterococci*, bacteria caused by human fecal matter.¹⁹⁵ These levels exceeded EPA’s maximum containment limits and violated the North Carolina statute limiting fecal coliforms in waters used for recreation purposes.¹⁹⁶ This surface water flows through the land of the African American residents, is accessible to children, adults, and animals, and has been attributed to the death of pets that drank the water.¹⁹⁷ The community is also concerned about the many abandoned factories – some of which are being used as residential housing without adequate cleanup.¹⁹⁸

The understanding of cumulative impact must be broadened to include the lack of compliance by local and state federal officials, planned construction projects, and the lack of basic amenities in low-income communities of color, such as safe drinking water, sewage systems, and stormwater management.

Washington, D.C.: Anacostia River Area

The Anacostia River, frequently referred to as the “Forgotten River,” has suffered neglect over the past 100 plus years, leading it to being placed on the list of the “Ten Most Polluted Rivers in the Nation.” Challenged by a mix of deforestation due to rapid development, and dense population growth in the watershed, the river is extremely sedimented, with over 35 feet of fine silt lying along its forty foot depths. The river is no longer used for commerce and the silting is not an issue for navigation, but it serves as a base of a toxic soup. Toxic chemicals have leaked into the river from former industrial sites along its shores, millions of gallons of untreated sewage from the city’s antiquated combined sewer outfall system flush into it annually, and tens of thousands pounds of trash and debris float downstream after each rainstorm or snow melt.

The problems associated with the river have been the result of the accumulation of pollutants from point and non-point sources, including federal and local governments, and local companies. The issues of the Anacostia are further complicated by the fact that though the tidal river is largely in the confines of the District of Columbia (a small segment of the headwaters lies within Maryland), the vast

¹⁹⁰ *Failing Septic Systems and Contaminated Well Waters:*

African-American Communities in Mebane, North Carolina, West End Revitalization Association 5 (Dec. 30, 2002), http://www.wera-nc.org/News/epa/epaej_1202.htm.

¹⁹¹ *Id.*

¹⁹² *Id.* at 6.

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ *Id.* at 14

¹⁹⁶ *Id.* at 15

¹⁹⁷ *Id.*

¹⁹⁸ *Failing Septic Systems*, *supra* note 197, at 17.

majority (80 percent) of the watershed spans the Maryland counties of Montgomery and Prince George's County.

Until recently, this span of sources has been addressed piecemeal. With all of the various sources, multiple, sometimes overlapping, the problems facing the river can often seem overwhelming to the local community. A comprehensive problem requires comprehensive actions. Pollution, especially in our air and waters, does not respect political boundaries. The EPA needs to exercise oversight in cooperation with the District's Department of the Environment, the Maryland Department of the Environment, and their counterparts in the local counties, in assessing cumulative impact and taking the appropriate actions to address these types of problems.

Ivy City, Washington, D.C

In the very heart of Washington, D.C. lies Ivy City, a small neighborhood that is unrecognizable from the iconic tree-lined streets of the nation's capital.¹⁹⁹ This neighborhood is home to a largely African American community. Unemployment nears 50 percent.²⁰⁰ This pocket of the city is sandwiched between three major D.C. roads, which create high amounts of vehicular pollution.²⁰¹ The neighborhood also hosts countless government vehicles, including snowplows, salt trucks, and school buses, all of which add to the cumulative air pollution.²⁰² Vehicle exhaust is known to contain multiple toxins, such as nitrogen oxides, sulfur oxides, and particulate matter, such as metal and soot.²⁰³ These toxins are known to increase the risk of cardiovascular disease, asthma, respiratory failure, and lung cancer.²⁰⁴

The elevated vehicular pollution levels have already yielded multiple cases of respiratory problems in the neighborhood.²⁰⁵ In 2012, the mayor decided to build a bus depot in the lot adjacent to a historic century-old school in the heart of Ivy City.²⁰⁶ This uptick of diesel-burning vehicles would add yet another layer of pollution in an already overburdened community. Diesel exhaust contains over 40 air toxins, including known carcinogens such as benzene, arsenic, and formaldehyde.²⁰⁷ Exposure to diesel can aggravate asthma attacks and cause respiratory illnesses and cancer.²⁰⁸ Furthermore, the residents had successfully campaigned to designate the school a historic site a decade earlier, and had hoped to use the building as a recreation and education center with activities for children and job training for adults.²⁰⁹ The planned bus depot, an abrupt departure from the city's promise to revitalize the community, incited

¹⁹⁹ David Alpert, *Environmental Justice for Ivy City*, Washington Post Opinions (Dec. 14, 2012), http://articles.washingtonpost.com/2012-12-14/opinions/35846642_1_street-trees-neighborhood-environmental-justice.

²⁰⁰ Darryl Fears, *Ivy City, Tired of Being a D.C. "Dumping Ground," Takes on Gray Over Bus Depot*, Washington Post (Aug. 12, 2012), http://articles.washingtonpost.com/2012-08-12/national/35492485_1_bus-depot-boltbus-suit-claims.

²⁰¹ *Environmental Justice for Ivy City*, *supra*, note 206.

²⁰² *Ivy City, Tired of Being a D.C. "Dumping Ground," supra* note 207.

²⁰³ Doug Brugge et al., *Near-highway Pollutants in Motor Vehicle Exhaust*, 6 *Env'tl Health* 23 (Aug. 9, 2007), available at <http://www.ehjournal.net/content/pdf/1476-069X-6-23.pdf>.

²⁰⁴ *Id.*

²⁰⁵ *Ivy City, Tired of Being a D.C. "Dumping Ground," supra* note 207.

²⁰⁶ *Id.*

²⁰⁷ Cal. EPA, OEHHA, *Health Effects of Diesel Exhaust*, http://oehha.ca.gov/public_info/facts/dieselfacts.html.

²⁰⁸ *Id.*

²⁰⁹ *Ivy City: Community Fact Sheet and Needs Assessment*, Empower DC (February 2012), <http://empowerdc.org/images/Ivy%20City%20Facts.Needs%20Assessment.pdf>.

the residents of Ivy City to fight back in court.²¹⁰ In December 2012, the judge, after taking a tour of the neighborhood,²¹¹ granted a preliminary injunction and admonished the city administration for circumventing “environmental screening by mischaracterizing the project.”²¹² Despite this victory, the struggle continues for these residents as they attempt to breathe life into an over-polluted neighborhood that is described as the vehicle “dumping ground” of Washington, D.C.²¹³

Cumulative Impacts on the Navajo Nation

EPA is well aware that resource extraction on the Navajo Nation, particularly uranium mining, has left a toxic legacy of contamination from waste material and abandoned mines that has not yet been remediated. The Environmental Justice department of the Sierra Club in Flagstaff, AZ, agrees that there is ongoing work to remediate the toxic effects of uranium mining. We would also like to speak to the exceptional risks that uranium pollution in the water, air, and soil, pose to communities on the Navajo Nation and surrounding communities.

For example, the five-year plan that the EPA is currently proposing in the Grants Mineral Belt region, should be re-evaluated and expanded. Residents in small, rural communities face extreme pollution threats. The residents, who live, raise livestock and garden on soil that releases radon, must pay for municipal water in order to avoid the contaminated local wells that traditionally provided water for free. Starting in 1958, a company, now owned by the Barrick Gold Corporation, placed 21 million tons of uranium tailings into an unlined pond. They promised nearby residents of Bluewater Valley that no contamination would spread beyond the alluvial water aquifer into underlying aquifers on which the residents relied. But by 1995, the contamination had spread from the alluvial into three lower aquifers, effectively ending residents’ use of wells.²¹⁴ The EPA’s attention to this region today, recognition of the need for safe, local water for the Grants Mineral Belt communities, and the agency’s efforts in the community are greatly appreciated, but EPA’s plan should recognize that the community’s private property has already been destroyed and water use now is expensive and must be curtailed, changing the way people in the community can live.

Bluewater Valley also requires additional support, due to existing health conditions related to living with over 30 years of contamination—the extent and impact of which has not been fully documented. Only recently has the area been assessed for human health risks. The EPA’s report found residents south of the tailings site face “cancer risks 18 times higher than EPA’s ‘generally acceptable risk’ range for radionuclides in outdoor air among other increased risks,” and the area north of the tailings site still lacks sufficient monitoring wells to determine if contamination from the Ambrosia Lake region is affecting the community.²¹⁵ The monitoring wells that do show contamination from the Anaconda/Arco/Bluewater site entering the community from the west, may be inadequate to fully understand the problem. No measures have been taken to protect the San Andres aquifer that grows food

²¹⁰ Sherrie Johnson, *Ivy City Community Demands Job Training Not Bus Parking at Crummel School*, ABC2 News (Jul. 17, 2012), <http://www.abc2news.com/dpp/news/education/ivy-city-community-demands-job-training-not-bus-parking-at-crummell-school>

²¹¹ Tom Sherwood, *Ivy City Residents Fight Bus Depot at Crummel School Site*, NBC4 Washington News (Nov. 26, 2012), <http://www.nbcwashington.com/blogs/first-read-dmv/Ivy-City-Residents-Fight-Bus-Depot-at-Crummell-School-Site-180938721.html>

²¹² Courtland Milloy, *For Ivy City, ‘The Plan’ Isn’t Paranoia*, Washington Post Local (Dec. 11, 2012), http://articles.washingtonpost.com/2012-12-11/local/35767596_1_bus-depot-low-income-people-residents

²¹³ *Ivy City, Tired of Being a D.C. “Dumping Ground,” supra* note 207.

²¹⁴ (Candace Head-Dylla, 2013, personal communication, 2013)

²¹⁵ (TAG grant summary of EPA Draft Human Health Risk Assessment, 2013)

for the livestock in Murray Acres.²¹⁶ In order to adequately address the risks of contamination in Bluewater Valley and in the Grants Mineral Belt as a whole, the Sierra Club Environmental Justice Department asks that the EPA take pre-existing health risks from contamination and social factors—including, in this case, the ways air, water, and soil sustain rural lives—into account.

We ask that the EPA recognize that communities around power plants, especially communities with significant Native populations, are at extreme risk of industrial pollution, as a result of social factors that pressure the community to accept pollution in exchange for jobs. The EPA's support is vital to enforcing workplace health standards, protecting surrounding communities from pollution from the mine, and developing economic alternatives, such as solar or wind energy, to provide communities with productive pathways to economic independence.

Bluewater Valley Downstream Alliance. (2013). *Summary of the USEPA Draft Human Health Risk Assessment*. Community newsletter funded by a Technical Assistance Grant from the USEPA.
Sierra Club. (2012). *DRAFT: Socioeconomic and demographic indicators: identifying and enumerating the state of EJ communities*. Dave O'Donnell.
United States Environmental Protection Agency. (2013). *EPA five-year plan progress report on cleaning up uranium contamination*. San Francisco: Dana Barton.
United States Environmental Protection Agency. (2013). *Assessment of health and environmental impacts of uranium mining and milling five-year plan—Grants Mining District, New Mexico*. Dallas: Mark Purcell.

Memphis, TN:

The Memphis Metropolitan Statistical area is typical of most large and mid-sized urban southern cities, in that they historically attracted heavy industrial areas. These industrial areas are usually in or around neighborhoods where a majority of residents are people of color.

While the City of Memphis is burdened with air pollution coming from a wide variety of sources, there are two parts of the city that bear a disproportionate burden compared to other sections of the city, or Shelby County. The Douglass neighborhood located in a section of north Memphis, has eight polluting facilities including the Hollywood Dump Superfund site and Velsicol Chemical Company's hazardous waste incinerator and a six-lane interstate highway runs alongside its northern border. Many of the polluting facilities have been present in the community and operating (under different names/owners) for more than 50 years. The Douglass neighborhood makes up the majority of the 38108 zip code area. The 38108 zip code area is an historically African-American neighborhood with a huge number of low-birth weight babies and a high infant mortality rate. Infant mortality should be a health indicator that calls attention to the negative health exposures from the cumulative industrial pollution and contamination sources. EPA must protect children and all communities exposed to pollution early in life, or the cycle of chronic illness and poor health will increase.

The south west area of Memphis, TN, is comprised of several historically African-American neighborhoods that are in close proximity to the Presidents Island industrial corridor, the Valero (oil) Refinery, and the fifty-five year old TVA Allen coal-fired power plant. These two areas of the city are dealing with multiple pollution sources.

²¹⁶ (Candace Head-Dylla, 2013, personal communication)

In addition, community members have complained for years about the strong odors coming from the area facilities, as well as the asthma, various cancers, miscarriages, and even deaths that they attribute to the environmental exposure to hazardous substances in their community.

Because pollution is considered to be a serious community health problem, the Sierra Club Environmental Justice Program office in Memphis monitors emissions coming from local facilities and compiles an annual report entitled, “Shelby County’s Terrible Ten Report.”²¹⁷ This report uses Toxic Release Inventory (TRI) data that the facilities are required to report to EPA each year estimating their emissions. Additionally, the report combines TRI data with health effects information on each of the toxic chemicals emitted, to help educate the community about the complex issue of air pollution. This easy-to-understand report has for ten years made an effort to raise awareness and draw attention to the top ten major sources of pollution to our air, water, and land.

Because we know the health effects of the many hazardous substances that are emitted, we are very concerned about the cumulative and synergistic health effects. We know based on the science that toxic air pollution particularly affects the elderly, pregnant women, and children. Even so, EPA does not mandate hazardous air monitors; not even in ‘hot spot’ areas. Air pollution, land pollution, and water pollution usually go hand-in-hand. Whether we are considering the health effects from air pollution, solid waste facilities, or from eating fish from contaminated rivers and streams, the health effects are cumulative ones in most environmental justice communities. Yet, community residents are faced with on-going pollution as well as the renewal of facility permits, continuously exposed.

²¹⁷ An example can be found at <http://www.sierraclub.org/ej/downloads/terrible10.pdf>

To: Emma Cheuse[echeuse@earthjustice.org]
From: Lee, Charles
Sent: Wed 5/18/2016 7:57:58 PM
Subject: RE: More contacts

Emma

You are a godsend. This is great.

Best

Charles

From: Emma Cheuse [mailto:echeuse@earthjustice.org]
Sent: Wednesday, May 18, 2016 12:54 PM
To: Lee, Charles <Lee.Charles@epa.gov>
Subject: More contacts

Charles - here are some people you may want to contact just in case they're not already on your list. Best, Emma

Ex. 6 - Personal Privacy

Angelo Logan

Moving Forward Network

alogan@oxy.edu

Ex. 6 - Personal Privacy

Dr. Adrienne L. Hollis, Esq.

Director of Federal Policy

WE ACT for Environmental Justice

50 F Street, NW, Seventh Floor

Washington, DC 20001

office: 202-495-3036

Email: Adrienne@weact.org

Website: www.weact.org

Jacqui Patterson, NAACP

jpatterson@naacpnet.org

Jesse Marquez

Coalition For A Safe Environment

Wilmington, CA

Ex. 6 - Personal Privacy

Luis Torres, latorres@lulac.org

Mark Magaña, MarkMagana@GreenLatinos.org, 202-230-2070

Robert Garcia, rgarcia@cityprojectca.org

Irma Muñoz, irma.munoz@mujeresdelatierra.org

Jose Bravo, jose@just-transition.org

Juan Parras, Texas Environmental Justice Advocacy Services, **Ex. 6 - Personal Privacy**

Suguet Lopez, suguet@liderescampesinas.org

Virginia Ruiz, vruiiz@farmworkerjustice.org

Eric Schaeffer,

Environmental Integrity Project, **Ex. 6 - Personal Privacy**

eschaeffer@environmentalintegrity.org

Sacoby Wilson,

Ex. 6 - Personal Privacy | Email: swilson2@umd.edu

Monique Harden

Advocates for Environmental Human Rights

mharden@ehumanrights.org

Ex. 6 - Personal Privacy

Bob Bullard

Bill Gallegos

Richard Moore, Coming Clean Environmental Justice & Health Alliance of Coming Clean;
Director of Los Jardines Institute

Ex. 6 - Personal Privacy

Michele Roberts, National Co-Coordinator of the Environmental Justice and Health Alliance,
Washington, DC, **Ex. 6 - Personal Privacy**

Dorothy Felix

Mossville Environmental Action Now

Ex. 6 - Personal Privacy

Beverly Wright

Deep South Center for Environmental Justice

Ex. 6 - Personal Privacy

Vincent Martin and Theresa Landrum

Original United Citizens of Southwest Detroit

Ex. 6 - Personal Privacy

Bcc: Lee, Charles[Lee.Charles@epa.gov]
To: Emma Cheuse[echeuse@earthjustice.org]
From: Lee, Charles
Sent: Fri 7/15/2016 7:45:04 PM
Subject: EJ 2020 Enforcement Discussion

Hi Emma

I left you a voice mail on this. Call me when you get a chance. I want to talk with you about pulling together the discussion on EJ 2020 enforcement issues.

Best
Charles

Sent from my iPhone

To: Emma Cheuse[echeuse@earthjustice.org]
From: Lee, Charles
Sent: Mon 11/2/2015 5:33:53 PM
Subject: RE: Plan EJ2020 follow-up

Hi Emma

Good hearing from you. I will be back in touch.

Thanks

Charles

From: Emma Cheuse [mailto:echeuse@earthjustice.org]
Sent: Monday, November 02, 2015 11:16 AM
To: Lee, Charles <Lee.Charles@epa.gov>
Subject: Plan EJ2020 follow-up

Charles,

Could we set a time to discuss and follow up as we talked about earlier in the summer?

Best regards,

Emma

Emma Cheuse

Staff Attorney

Earthjustice

1625 Massachusetts Avenue, N.W., Suite 702

Washington, DC 20036-2243

T: 202.745.5220 or 202.667.4500 Ext. 5220

F: 202.667.2356

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To: Emma Cheuse[echeuse@earthjustice.org]
Cc: Tejada, Matthew[Tejada.Matthew@epa.gov]
From: Lee, Charles
Sent: Mon 5/16/2016 6:08:48 PM
Subject: RE: Meeting on Monday

Looking forward to it.

From: Emma Cheuse [mailto:echeuse@earthjustice.org]
Sent: Monday, May 16, 2016 1:57 PM
To: Lee, Charles <Lee.Charles@epa.gov>
Cc: Tejada, Matthew <Tejada.Matthew@epa.gov>
Subject: RE: Meeting on Monday

Charles - looking forward to talking with you soon. Just a note that, per our phone conversation previously on this, I am bringing one colleague -- Khushi Desai -- also in our Healthy Communities program.

Many thanks,

Emma

Emma Cheuse

Staff Attorney

Earthjustice

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From: Emma Cheuse
Sent: Friday, May 13, 2016 4:13 PM
To: 'Lee, Charles'
Cc: Tejada, Matthew
Subject: RE: Meeting on Monday

Thank you - yes. 3:00pm Monday works for me. I will come to your office then, unless you let me know a different meeting spot. Best, Emma (c: 202-664-3652)

Emma Cheuse

Staff Attorney

Earthjustice

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From: Lee, Charles [<mailto:Lee.Charles@epa.gov>]
Sent: Friday, May 13, 2016 3:49 PM
To: Emma Cheuse
Cc: Tejada, Matthew
Subject: RE: Meeting on Friday

Hi Emma

Would getting together at any time at 3 pm be good for you. Please find a copy of the draft executive summary for EJ 2020. It is still a draft, so it is for your eyes only. Please do not share it with anyone. If 3 pm does not work, let me know. I can be flexible.

Thanks and have a good weekend.

Charles

From: Emma Cheuse [<mailto:echeuse@earthjustice.org>]
Sent: Thursday, May 12, 2016 11:30 AM
To: Lee, Charles <Lee.Charles@epa.gov>
Cc: Tejada, Matthew <Tejada.Matthew@epa.gov>
Subject: RE: Meeting on Friday

Thanks, Charles. Monday sounds good - please send along the time when possible. I'm hoping to bring one of my colleagues with me to our meeting. Very best regards, Emma

Emma Cheuse

Staff Attorney

Earthjustice

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From: Lee, Charles [<mailto:Lee.Charles@epa.gov>]

Sent: Wednesday, May 11, 2016 11:09 AM

To: Emma Cheuse

Cc: Tejada, Matthew

Subject: RE: Meeting on Friday

Emma

Thanks very much. I think Monday would be better. I will get back with you with some good times.

Also, can you tell Lisa Garcia to call us. Matt and I have been trying to reach her.

Thanks

Charles

From: Emma Cheuse [<mailto:echeuse@earthjustice.org>]

Sent: Wednesday, May 11, 2016 10:50 AM

To: Lee, Charles <Lee.Charles@epa.gov>

Subject: RE: Meeting on Friday

No problem. Unfortunately, I'm booked Friday afternoon with meetings I can't change. Would 8 or 9am tomorrow work? Or, 8 or 9am Monday? (Monday, any time before 4 ET also works for me -- I'd want to quickly check the time you'd propose with Khushi with the hope that she can also join then).

Best, Emma

Emma Cheuse

Staff Attorney

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delete the message and any attachments.

From: Lee, Charles [<mailto:Lee.Charles@epa.gov>]
Sent: Wednesday, May 11, 2016 10:42 AM
To: Emma Cheuse
Subject: Meeting on Friday

Emma

Can we move our meeting on EJ 2020 scheduled for 9 am on Friday, May 13 to 2 pm or later.
They scheduled an important meeting for that time.

Thanks

Charles

Charles Lee
Deputy Associate Assistant Administrator for Environmental Justice
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (MC 2201A)
William Jefferson Clinton Building South, Room 2226B
Tel: 202-564-2597
Fax: 202-564-1624

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To: Emma Cheuse[echeuse@earthjustice.org]
From: Lee, Charles
Sent: Tue 7/26/2016 5:20:09 PM
Subject: RE: Next week

Emma

Not a problem. I look forward to it.

Thanks

Charles

From: Emma Cheuse [mailto:echeuse@earthjustice.org]
Sent: Tuesday, July 26, 2016 1:17 PM
To: Lee, Charles <Lee.Charles@epa.gov>
Subject: Next week

Dear Charles,

Apologies that I haven't been able to confer due to people's travel schedules and pending deadlines. I will hopefully follow up with you next week for scheduling the conversation we discussed.

We greatly appreciate your reaching out on this.

Very best regards,

Emma

Emma Cheuse

Staff Attorney

Earthjustice

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To: Emma Cheuse[echeuse@earthjustice.org]
Cc: Tejada, Matthew[Tejada.Matthew@epa.gov]
From: Lee, Charles
Sent: Fri 5/13/2016 7:48:43 PM
Subject: RE: Meeting on Friday
EJ 2020 Exec Summary Dft 05-09-16.pdf

Hi Emma

Would getting together at any time at 3 pm be good for you. Please find a copy of the draft executive summary for EJ 2020. It is still a draft, so it is for your eyes only. Please do not share it with anyone. If 3 pm does not work, let me know. I can be flexible.

Thanks and have a good weekend.

Charles

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Also, can you tell Lisa Garcia to call us. Matt and I have been trying to reach her.

Thanks

Charles

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Subject: RE: Meeting on Friday

No problem. Unfortunately, I'm booked Friday afternoon with meetings I can't change. Would 8 or 9am tomorrow work? Or, 8 or 9am Monday? (Monday, any time before 4 ET also works for me -- I'd want to quickly check the time you'd propose with Khushi with the hope that she can also join then).

Best, Emma

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Emma

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Thanks

Charles

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William Jefferson Clinton Building South, Room 2226B
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To: Emma Cheuse[echeuse@earthjustice.org]
Cc: Tejada, Matthew[Tejada.Matthew@epa.gov]
From: Lee, Charles
Sent: Wed 5/11/2016 3:09:12 PM
Subject: RE: Meeting on Friday

Emma

Thanks very much. I think Monday would be better. I will get back with you with some good times.

Also, can you tell Lisa Garcia to call us. Matt and I have been trying to reach her.

Thanks

Charles

From: Emma Cheuse [mailto:echeuse@earthjustice.org]
Sent: Wednesday, May 11, 2016 10:50 AM
To: Lee, Charles <Lee.Charles@epa.gov>
Subject: RE: Meeting on Friday

No problem. Unfortunately, I'm booked Friday afternoon with meetings I can't change. Would 8 or 9am tomorrow work? Or, 8 or 9am Monday? (Monday, any time before 4 ET also works for me -- I'd want to quickly check the time you'd propose with Khushi with the hope that she can also join then).

Best, Emma

Emma Cheuse

Staff Attorney

Earthjustice

1625 Massachusetts Avenue, N.W., Suite 702

Washington, DC 20036-2243

T: 202.745.5220 or 202.667.4500 Ext. 5220

F: 202.667.2356

earthjustice.org



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If you think that you have received this email message in error, please notify the sender by reply email and

delete the message and any attachments.

From: Lee, Charles [<mailto:Lee.Charles@epa.gov>]

Sent: Wednesday, May 11, 2016 10:42 AM

To: Emma Cheuse

Subject: Meeting on Friday

Emma

Can we move our meeting on EJ 2020 scheduled for 9 am on Friday, May 13 to 2 pm or later.
They scheduled an important meeting for that time.

Thanks

Charles

Charles Lee
Deputy Associate Assistant Administrator for Environmental Justice
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (MC 2201A)
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To: Emma Cheuse[echeuse@earthjustice.org]
From: Lee, Charles
Sent: Wed 5/11/2016 2:42:25 PM
Subject: Meeting on Friday

Emma

Can we move our meeting on EJ 2020 scheduled for 9 am on Friday, May 13 to 2 pm or later.
They scheduled an important meeting for that time.

Thanks

Charles

Charles Lee
Deputy Associate Assistant Administrator for Environmental Justice
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
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To: Emma Cheuse[echeuse@earthjustice.org]; Stephanie Maddin (smaddin@earthjustice.org)[smaddin@earthjustice.org]
From: Lee, Charles
Sent: Tue 6/9/2015 1:33:09 PM
Subject: EJ 2020 Public Comment Period Extended to July 14, 2015

Emma and Stephanie, Here goes again. If you send this to others, please do not use prior e-mail (or cut and paste the relevant information). The other e-mail had some extraneous e-mail traffic included. Thanks, Charles

EPA Extends Public Comment Period on Draft EJ 2020 Action Agenda Framework to July 14, 2015

As a result of robust feedback from stakeholders, the U.S. Environmental Protection Agency (EPA) is extending the public comment period on the draft EJ 2020 Action Agenda (EJ 2020) framework until July 14, 2015.

EPA is seeking public comment on EJ 2020, its next overarching strategic plan to advance environmental justice through EPA's programs, policies and activities, and will support the cross-agency strategy on making a visible difference in environmentally overburdened, underserved, and economically-distressed communities. Stakeholders and the general public can review the framework and submit comments, by visiting www.epa.gov/environmentaljustice/ej2020

"EJ 2020 will build on the foundation established by EPA's Plan EJ 2014, where we were able to improve on EJ in permitting, support community-based programs and develop science tools to access and facilitate grants," said Mustafa Santiago Ali, Senior Advisor to Administrator Gina McCarthy on Environmental Justice. "Although we've made good progress, there's still more to do. We need to strategically identify opportunities for targeted collaboration that benefit overburdened communities. Your voices, experiences and expertise can help shape a strategy that addresses the needs of your communities." Read his [blog](#) for more about how EJ 2020 is about defining new goals for the coming years.

The goals of EJ 2020 are to:

- Deepen environmental justice practice within EPA programs to improve the health and environment of overburdened communities;
- Collaborate with partners to expand our impact within communities; and
- Demonstrate progress on outcomes that matter to communities.

Under Plan EJ 2014, EPA laid a foundation for integrating environmental justice into all its programs, including rule-writing, permitting, enforcement, science and law. Plan EJ

2014 helped to build environmental justice into the agency's regulatory practice, revitalized environmental justice planning across the federal family, and initiated the development of a cross-cutting Environmental Justice Research Roadmap. To learn more about the accomplishments under Plan EJ 2014, visit <http://epa.gov/environmentaljustice/plan-ej/index.html>.

During the public comment period for EJ 2020, EPA has conducted many informational and dialogue sessions with partners and stakeholder groups. For more information about these opportunities, please visit <http://www.epa.gov/environmentaljustice/ej2020>.

Environmental justice is defined as the fair treatment and meaningful involvement of all people, regardless of race or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. EPA's goal is to provide an environment where all people enjoy equal access to the environmental decision-making process to maintain a healthy environment in which to live, learn, and work. EPA's environmental justice work is an outgrowth of Executive Order 12898, signed by President Clinton in 1994, that requires federal agencies to address the disproportionately high and adverse human health or environmental effects of their programs on minority and low-income populations.

For more information about EPA's environmental justice work, visit: <http://www.epa.gov/environmentaljustice/>

To: Emma Cheuse[echeuse@earthjustice.org]; Stephanie Maddin (smaddin@earthjustice.org)[smaddin@earthjustice.org]
From: Lee, Charles
Sent: Tue 6/9/2015 1:26:57 PM
Subject: EJ 2020 Public Comment Period Extended to July 14, 2015

Emma and Stephanie, Here goes.

Charles

EPA Extends Public Comment Period on Draft EJ 2020 Action Agenda Framework to July 14, 2015

As a result of robust feedback from stakeholders, the U.S. Environmental Protection Agency (EPA) is extending the public comment period on the draft EJ 2020 Action Agenda (EJ 2020) framework until July 14, 2015.

EPA is seeking public comment on EJ 2020, its next overarching strategic plan to advance environmental justice through EPA's programs, policies and activities, and will support the cross-agency strategy on making a visible difference in environmentally overburdened, underserved, and economically-distressed communities. Stakeholders and the general public can review the framework and submit comments, by visiting www.epa.gov/environmentaljustice/ej2020

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EJ 2014, visit <http://epa.gov/environmentaljustice/plan-ej/index.html>.

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For more information about EPA's environmental justice work, visit:
<http://www.epa.gov/environmentaljustice/>

Scott Parris

ORISE Participant

EPA Office of Environmental Justice

parris.scott@epa.gov

202-564-3367

Check out the [Environmental Justice in Action blog](#), which features stories from various EJ stakeholders, including EPA, community leaders, and state and local government.

From: Lee, Charles
Sent: Tuesday, June 09, 2015 9:23 AM
To: Parris, Scott
Cc: Robinson, Victoria
Subject: RE: Listserv

Can you send me the EJ 2020 extension. I need to send it to folks.

Thanks

Charles

From: Parris, Scott
Sent: Tuesday, June 09, 2015 9:21 AM
To: Lee, Charles
Cc: Robinson, Victoria
Subject: RE: Listserv

It's not in my inbox either. But I have noticed that for whatever reason sometimes the message is received a day or two late.

I double checked. You are properly subscribed, and you are not listed among the failed send attempts. I'll inquire with the admins about it.

Scott Parris

ORISE Participant

EPA Office of Environmental Justice

parris.scott@epa.gov

202-564-3367

Check out the [Environmental Justice in Action blog](#), which features stories from various EJ

stakeholders, including EPA, community leaders, and state and local government.

From: Lee, Charles
Sent: Tuesday, June 09, 2015 9:08 AM
To: Parris, Scott
Cc: Robinson, Victoria
Subject: Listserv

Scott

Can you do two things for me:

Forward me the Listserv announcement on the EJ 2020 extension.

Check to see if I have been inadvertently unsubscribed to the Listserv. I do not seem to have received this and it is not in my Spam folder.

Thanks

Charles

Charles Lee

Deputy Associate Assistant Administrator for Environmental Justice
Office of Enforcement and Compliance Assurance
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To: Louise Gorenflo[Ex. 6 - Personal Privacy]; Browne, Jacqueline[Browne.Jacqueline@epa.gov]
Cc: Amanda Garcia[agarcia@seicn.org]; Amy Kelly[amy.kelly@appvoices.org]; Anne Blair[anne@cleanenergy.org]; Chris Lughino[chris.lughino@sierraclub.org]; Jennifer Alldredge[Ex. 6 - Personal Privacy]; Jonathan Levenshus[jonathan.levenshus@sierraclub.org]; Leslie Fields[leslie.fields@sierraclub.org]; Missy Ivie[Ex. 6 - Personal Privacy]; Rory McIlmoil[rory@appvoices.org]; Taylor Allred[taylor@cleanenergy.org]
From: Lee, Charles
Sent: Thur 6/4/2015 2:30:10 PM
Subject: RE: Tennessee conference call on EJ 2020 concerns
EPA EJ 2020 Draft Framework April 2015.pdf

Good morning everyone

I look forward to speaking with you this afternoon. I am not sure if Louise had sent you a copy of the EJ 2020 draft framework. So please find it attached.

Regards

Charles

Charles Lee
Deputy Associate Administrator for Environmental Justice
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (MC 2201A)
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From: Louise Gorenflo **Ex. 6 - Personal Privacy**

Sent: Wednesday, June 03, 2015 9:43 AM

To: Lee, Charles; Browne, Jacqueline

Cc: Amanda Garcia; Amy Kelly; Anne Blair; Chris Lunghino; Jennifer Alldredge; Jonathan Levenshus; Leslie Fields; Missy Ivie; Rory McIlmoil; Taylor Allred

Subject: Tennessee conference call on EJ 2020 concerns

Our conference call is 3:30 ET, Thursday June 4.

The conference call number is **Ex. 6 - Personal Privacy** (no pin required.)

Joining the call

with Charles Lee

are the following:

- Amanda Garcia (Southern Environmental Law Center)
- Amy Kelly (Appalachian Voices)
- Anne Blair (Southern Alliance for Clean Energy)
- Chris Lunghino (TN Beyond Coal Campaign / Sierra Club)
- Jennifer Alldredge (Alliance to Save Energy)
- Jonathan Levenshus (TN Beyond Coal Campaign / Sierra Club)
- Leslie Fields (EJ Director / Sierra Club)
- Missy Ivie (TN Interfaith Power and Light)
- Rory McIlmoil (Appalachian Voices)
- Taylor Allred (Southern Alliance for Clean Energy)

Please find attached concerns we would like to address on the call.

Also, fast breaking news, EPA yesterday released its "Guidance on Considering EJ During the Development of Regulatory Actions." Charles can help us understand how this guidance would affect the Clean Power Plan. [Here is a link to the PDF.](#)

We thank Charles and Jacqueline for making available this opportunity.

Louise Gorenflo

To: Leslie Fields[leslie.fields@sierraclub.org]
From: Lee, Charles
Sent: Mon 3/23/2015 9:34:40 PM
Subject: RE: so sorry to miss meeting with you

Leslie

It is never too late. Can we set up a time to talk this week. I will pop you some times when I am available this week. We can do this in person or by phone.

Charles

From: Leslie Fields [mailto:leslie.fields@sierraclub.org]
Sent: Monday, March 23, 2015 5:31 PM
To: Lee, Charles
Subject: so sorry to miss meeting with you

is it too late? thanks, Leslie

--

Leslie G. Fields

Director, Environmental Justice & Community Partnerships Program

Sierra Club

50 F Street NW, Eighth Floor

Washington, DC 20001

202-548-4586

Leslie.Fields@sierraclub.org

www.sierraclub.org/ejcp

To: Stephanie Maddin[smaddin@earthjustice.org]
Cc: Emma Cheuse[echeuse@earthjustice.org]; Browne, Jacqueline[Browne.Jacqueline@epa.gov]
From: Lee, Charles
Sent: Thur 5/21/2015 5:39:53 PM
Subject: Re: EJ 2020 Session on May 26

Stephanie

Thanks. I think we should use one document and the draft framework document to be better, particularly to promote a dialogue.

Charles

Sent from my iPhone

On May 21, 2015, at 10:14 AM, Stephanie Maddin <smaddin@earthjustice.org> wrote:

That's fine, I've already sent the document but I could also change it into a few slides if you want too. It's not that difficult.

From: Lee, Charles [<mailto:Lee.Charles@epa.gov>]
Sent: Thursday, May 21, 2015 10:08 AM
To: Stephanie Maddin; Emma Cheuse
Cc: Browne, Jacqueline
Subject: Re: EJ 2020 Session on May 26

Stephanie

I left you a voice mail on this. It was my understanding that we would not be doing a webinar, as I will not be in the office and will have access only through a teleconference. It would be easier to walk people through the framework document.

If you think we have a need for a power point, we have one but that may make things more confusing if there are two documents.

Thanks

Charles

From: Stephanie Maddin <smaddin@earthjustice.org>
Sent: Thursday, May 21, 2015 9:50 AM
To: Lee, Charles; Emma Cheuse
Cc: Browne, Jacqueline
Subject: RE: EJ 2020 Session on May 26

If you have the power point you used for the other webinars, can I get it so I can load it for the webinar portion of the call?

From: Lee, Charles [<mailto:Lee.Charles@epa.gov>]
Sent: Tuesday, May 19, 2015 6:25 PM
To: Stephanie Maddin; Emma Cheuse
Cc: Browne, Jacqueline
Subject: EJ 2020 Session on May 26

Stephanie and Emma

I am checking in to see if there is anything you need from me for next Tuesday's call. I am currently in California for the NEJAC meeting this week and want to make sure all is set for this important call.

Thanks

Charles

To: Emma Cheuse[echeuse@earthjustice.org]
From: Lee, Charles
Sent: Wed 5/4/2016 7:03:05 PM
Subject: Meeting Tomorrow

Emma

I think it is the best use of your time if we reschedule our meeting tomorrow on EJ 2020. I am still working through some issues here and will not have a document to share yet. I will call to about rescheduling first thing in the morning.

Thanks

Charles

Charles Lee
Deputy Associate Assistant Administrator for Environmental Justice
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (MC 2201A)
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Cc: Browne, Jacqueline[Browne.Jacqueline@epa.gov]
To: Stephanie Maddin[smaddin@earthjustice.org]; Emma Cheuse[echeuse@earthjustice.org]
From: Lee, Charles
Sent: Thur 5/21/2015 2:08:06 PM
Subject: Re: EJ 2020 Session on May 26

Stephanie

I left you a voice mail on this. It was my understanding that we would not be doing a webinar, as I will not be in the office and will have access only through a teleconference. It would be easier to walk people through the framework document.

If you think we have a need for a power point, we have one but that may make things more confusing if there are two documents.

Thanks

Charles

From: Stephanie Maddin <smaddin@earthjustice.org>
Sent: Thursday, May 21, 2015 9:50 AM
To: Lee, Charles; Emma Cheuse
Cc: Browne, Jacqueline
Subject: RE: EJ 2020 Session on May 26

If you have the power point you used for the other webinars, can I get it so I can load it for the webinar portion of the call?

From: Lee, Charles [mailto:Lee.Charles@epa.gov]
Sent: Tuesday, May 19, 2015 6:25 PM
To: Stephanie Maddin; Emma Cheuse
Cc: Browne, Jacqueline
Subject: EJ 2020 Session on May 26

Stephanie and Emma

I am checking in to see if there is anything you need from me for next Tuesday's call. I am currently in California for the NEJAC meeting this week and want to make sure all is set for this important call.

Thanks

Charles

Cc: Browne, Jacqueline[Browne.Jacqueline@epa.gov]
To: Stephanie Maddin[smaddin@earthjustice.org]; Emma Cheuse[echeuse@earthjustice.org]
From: Lee, Charles
Sent: Tue 5/19/2015 10:25:15 PM
Subject: EJ 2020 Session on May 26

Stephanie and Emma

I am checking in to see if there is anything you need from me for next Tuesday's call. I am currently in California for the NEJAC meeting this week and want to make sure all is set for this important call.

Thanks

Charles

To: Emma Cheuse[echeuse@earthjustice.org]
From: Lee, Charles
Sent: Wed 4/27/2016 8:49:37 PM
Subject: EJ 2020

Hi Emma

I hope you are well. I left you a voice mail message about EJ 2020 and look forward to talking with you.

Regards

Charles

Charles Lee
Deputy Associate Assistant Administrator for Environmental Justice
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
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To: Emma Cheuse[echeuse@earthjustice.org]; Stephanie Maddin (smaddin@earthjustice.org)[smaddin@earthjustice.org]
Cc: Browne, Jacqueline[Browne.Jacqueline@epa.gov]; Tejada, Matthew[Tejada.Matthew@epa.gov]
From: Lee, Charles
Sent: Wed 5/6/2015 3:00:46 PM
Subject: EJ 2020 Session

Stephanie and Emma

Thanks for the discussion yesterday. It was very fruitful. I wanted to follow up on scheduling the EJ 2020 discussion with Earthjustice and your partners. Let me know some times what work during the dates of May 26, 27 or 28. If you need to, I can do this after 12 noon EST. Jackie Browne helps with the scheduling on this and she is copied.

Thanks

Charles

Charles Lee
Deputy Associate Assistant Administrator for Environmental Justice
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To: Stephanie Maddin (smaddin@earthjustice.org)[smaddin@earthjustice.org]
Cc: Lisa Garcia[lgarcia@earthjustice.org]
From: Lee, Charles
Sent: Mon 4/27/2015 9:29:50 PM
Subject: California SB 535 Panel

Stephanie

Here is the video of the SB 535 panel that I put together. As I indicated, the proceeds for “disadvantaged” communities amount to \$272 million for FY 2014-2015.

<http://innovation.luskin.ucla.edu/content/sb-535-videos>

Thanks

Charles

Charles Lee
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To: Leslie Fields[leslie.fields@sierraclub.org]
From: Lee, Charles
Sent: Sun 3/8/2015 4:51:28 PM
Subject: Re: Meeting Request

Hi Leslie

Are you available for a one-hour discussion on Monday-3/9 (1:00-4:00 pm), Tuesday-3/10 911 am-2 pm), or Wednesday-3/11 (11 am-4 pm). It would be great to do this in person. Thanks

Charles

From: Leslie Fields <leslie.fields@sierraclub.org>
Sent: Thursday, February 26, 2015 4:42 PM
To: Lee, Charles
Subject: Re: Meeting Request

The week of March 9. thanks

On Thu, Feb 26, 2015 at 4:36 PM, Lee, Charles <Lee.Charles@epa.gov> wrote:

Leslie

Can I set up a time to talk with you. We are getting ready to do community and stakeholder engagement on our next EJ strategic plan. I want to do a number of one-on-one meetings with key people, such as yourself, before we proceed. Let me know when would be a good time to meet.

Thanks

Charles Lee

Deputy Associate Assistant Administrator for Environmental Justice
Office of Enforcement and Compliance Assurance
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Sierra Club
50 F Street NW, Eighth Floor
Washington, DC 20001
202-548-4586
Leslie.Fields@sierraclub.org
www.sierraclub.org/ejcp

To: Leslie Fields[leslie.fields@sierraclub.org]
From: Lee, Charles
Sent: Fri 4/10/2015 11:51:54 AM
Subject: RE: so sorry to miss meeting with you

Hey Leslie

I realized that we had not gotten to this yet. I still want to do this. Let me know when are some good times for you.

Charles

From: Lee, Charles
Sent: Monday, March 23, 2015 5:35 PM
To: 'Leslie Fields'
Subject: RE: so sorry to miss meeting with you

Leslie

It is never too late. Can we set up a time to talk this week. I will pop you some times when I am available this week. We can do this in person or by phone.

Charles

From: Leslie Fields [<mailto:leslie.fields@sierraclub.org>]
Sent: Monday, March 23, 2015 5:31 PM
To: Lee, Charles
Subject: so sorry to miss meeting with you

is it too late? thanks, Leslie

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Leslie G. Fields

Director, Environmental Justice & Community Partnerships Program

Sierra Club

50 F Street NW, Eighth Floor

Washington, DC 20001

202-548-4586

Leslie.Fields@sierraclub.org

www.sierraclub.org/ejcp

To: Melissa Damaschke
(melissa.damaschke@sierraclub.org)[melissa.damaschke@sierraclub.org]
From: Lee, Charles
Sent: Thur 12/11/2014 3:51:14 PM
Subject: Your Note

Melissa

Thanks for your note. I finally got around to getting back to you. It would be great to talk about your work and how to advance EJ principles in the Great Lakes program.

Regards

Charles

Charles Lee
Deputy Associate Assistant Administrator for Environmental Justice
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To: lgarcia@earthjustice.org[lgarcia@earthjustice.org]; Stephanie Maddin (smaddin@earthjustice.org)[smaddin@earthjustice.org]; Marianne Engelman Lado (mengelmanlado@earthjustice.org)[mengelmanlado@earthjustice.org]
From: Lee, Charles
Sent: Fri 3/6/2015 8:15:14 AM
Subject: Fw: [CEEJH] California's Senate Bill 535: State Greenhouse Gas Reduction Funds Benefiting Disadvantaged Communities Amount to \$272 Million This Year
[SB 535 Panel-Natl EJ Conf 2015 Abstract-v2.docx](#)
[SB535 Fact Sheet 2014.pdf](#)

Hi Lisa, Stephanie and Marianne

Hope you are doing well. As part of EPA's EJ Month activities, I am moderating a panel on California's Senate Bill 535 at the National Environmental Justice Conference on March 13. SB 535 mandates that 25% of the state's Greenhouse Gas Reduction Fund proceeds benefit disadvantaged communities as identified by CalEnviroScreen and amounting to \$272 million this year. Hope you can come. See information below and attached. Please share with folks at Earthjustice and other places.

Charles

Charles Lee
Deputy Associate Assistant Administrator for Environmental Justice
Office of Enforcement and Compliance Assurance
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From: Community Engagement, Environmental Justice, and Health <CEEJH@LISTSERV.UMD.EDU> on behalf of Laura Dalemarre <ldalemar@UMD.EDU>
Sent: Saturday, February 28, 2015 11:11 AM
To: CEEJH@LISTSERV.UMD.EDU
Subject: [CEEJH] California's Senate Bill 535: State Greenhouse Gas Reduction Funds Benefiting Disadvantaged Communities Amount to \$272 Million This Year

Greetings!

One of the most significant events in the arena of climate justice took place when California's Senate Bill 535 (SB 535) was signed into law. SB 535 mandates that at least 25% of the state's Greenhouse Gas Reduction Fund investments go to projects that benefit disadvantaged communities.

Charles Lee, Deputy Associate Administrator for Environmental Justice of the U.S. Environmental Protection Agency will be leading the discussion with a panel of unique leaders from communities, government and academia. They will share the "backstory" of the efforts to conceive, pass and now implement SB 535. They will provide first hand perspectives on lessons regarding their successes and challenges—past and present, as well as implications for other parts of the nation.

Panelists: **Shankar Prasad**, CalEPA/OEHHA (formerly with Coalition for Clean Air)

Mari Rose Taruc, Asian Pacific Environmental Network

Arsenio Mataka, California Environmental Protection Agency

Colleen Callahan, UCLA Luskin Center for Innovation

Date: March 13, 2015

Time: 3:30-4:30 PM

Place: Washington Marriott at Metro Center

London Rooms 1 & 2

775 12th Street, N.W.

Washington, DC 20005

National Environmental Justice Conference

<http://www.thenejc.org/>

Questions or additional info, please contact:

Charles Lee

Lee.charles@epa.gov

202-564-2597

Carlton Eley

Eley.carlton@epa.gov

202-566-2841

Piyachat Terrell

Ex. 6 - Personal Privacy

Cc: Stephanie Maddin[smaddin@earthjustice.org]
To: Emma Cheuse[echeuse@earthjustice.org]; Tejada, Matthew[Tejada.Matthew@epa.gov]
From: Lee, Charles
Sent: Wed 7/15/2015 2:56:04 AM
Subject: Re: FILED Draft EJ 2020 Action Agenda Framework Comments submitted by Earthjustice

Emma and Stephanie

Thanks very much for the work that went into this. Will be in touch.

Charles

From: Emma Cheuse <echeuse@earthjustice.org>
Sent: Tuesday, July 14, 2015 4:33 PM
To: Tejada, Matthew; Lee, Charles
Cc: Stephanie Maddin
Subject: FYI: FILED Draft EJ 2020 Action Agenda Framework Comments submitted by Earthjustice

Dear Matt and Charles, Just a courtesy FYI on the comments we filed today. Very best regards, Emma (202) 745-5220

From: Albert Lin
Sent: Tuesday, July 14, 2015 4:15 PM
To: 'ejstrategy@epa.gov'
Cc: Emma Cheuse; Adrian Martinez; Marianne Engelman Lado; Stephanie Maddin
Subject: Draft EJ 2020 Action Agenda Framework Comments submitted by Earthjustice

July 14, 2015

Please accept the attached Comments submitted via e-mail on:

Draft EJ 2020 Action Agenda Framework..

These comments are submitted by Earthjustice on behalf of Air Alliance Houston; Alaska's Big Village Network; Apostolic Faith Center; California Communities Against Toxics; California Kids IAQ; California Safe Schools; CATA – The Farmworkers Support Committee; Center for Effective Government; Citizens Against Ruining the Environment; Citizens' Environmental Coalition; Citizens for Clean Air; Clean Air Council; Clean and Healthy New York; Clean Water and Air Matter; Coalition For A Safe Environment; Comité Civico del Valle; Comité Diálogo Ambiental, Inc.; Community Dreams; Community In-Power and Development Association; Community Science Center; Del Amo Action Committee; Desert Citizens Against Pollution; Diesel Health Project; Downwinders At Risk; East Yard Communities for Environmental Justice; 48217 Community and Environmental Health Organization; Farmworker Association of Florida; Institute of Neurotoxicology & Neurological Disorders; Jesus People Against Pollution; Kentucky Environmental Foundation; Martinez Environmental Group; Mossville Environmental Action Now; Natural Resources Defense Council; Neighbors for Clean Air; New Mexico Environmental Law Center; North Carolina Coastal Federation; PenderWatch & Conservancy; Pesticide Action Network North America; Sierra Club; Southeastern North Carolina Environmental Justice Coalition; Southern Appalachian Mountain Stewards; Steps Coalition; The City Project; The Original United Citizens of Southwest Detroit; Tri-Valley CARES; West End Revitalization Association; and Earthjustice.

Additionally, appendix documents accompanying these Comments have been submitted via 4 separate emails.

/s/ Albert Lin (for Emma C. Cheuse)

Albert Lin

Litigation Assistant

Earthjustice Washington, D.C. Office

1625 Massachusetts Avenue, N.W., Suite 702

Washington, DC 20036-2243

T: 202.745.5219

F: 202.667.2356

earthjustice.org



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Cc: Janet Phoenix[**Ex. 6 - Personal Privacy**]; Jalonne White-Newsome[jalonne@weact.org]; Leslie Fields[leslie.fields@sierraclub.org]; Sacoby Wilson[swilson2@umd.edu]; Stephanie Maddin[smaddin@earthjustice.org]; Bruce Engelbert[bengelbert@skeo.com]; Garon, Stephen[Stephen_Garon@sra.com]; King, Marva[King.Marva@EPA.GOV]; Eric Marsh[emarsh@skeo.com]; Wilson, Holly[Wilson.Holly@epa.gov]; Epps-Price, Lena[Epps-Price.Lena@epa.gov]; Kerri Moran[kmoran@michaeldbaker.com]
To: Tiffany Reed[treed@skeo.com]; Vernice Miller-Travis[vmiller-travis@skeo.com]
From: Lee, Charles
Sent: Mon 3/17/2014 5:20:24 PM
Subject: RE: Weather impeded travel back-up plan

Vernice and Tiffany

I am flying down on Tuesday night, so I think the flights will be on schedule by then.
Thanks for this information.

Charles

From: Tiffany Reed <treed@skeo.com>
Sent: Monday, March 17, 2014 10:46 AM
To: Vernice Miller-Travis
Cc: Janet Phoenix; Jalonne White-Newsome; Leslie Fields; Sacoby Wilson; Stephanie Maddin; Bruce Engelbert; Garon, Stephen; Lee, Charles; King, Marva; Eric Marsh; Wilson, Holly; Epps-Price, Lena; Kerri Moran
Subject: Re: Weather impeded travel back-up plan

Hello Everyone,
Below you will find train information to Raleigh for each of your home cities. There were no options for trains from Manassas, VA today, so I included information from Quantico as a nearby option. I called Amtrak and as of now trains are moving in and out of the DC area, there have been no cancellations. I will be sure to include further updates if any information arises. Good luck traveling to Raleigh, and Happy St. Patty's Day!

Tiffany

Monday, March 17, 2014

From: Alexandria, VA (ALX)

To: Raleigh, NC (RGH)

Depart	Arrive	Connection	Duration*	Route	Train (Bus) #
Mon 11:12 am	Mon 4:42 pm	Direct	5 hr, 30 min	Carolinian	79
Mon 3:25 pm	Mon 8:57 pm	Direct	5 hr, 32 min	Silver Star	91
Mon 11:05 am	Mon 8:57 pm	<u>WAS</u>	6 hr, 07 min	<u>Multiple</u>	176/ 91

Monday, March 17, 2014

From: Washington, DC - Union Station (WAS)

To: Raleigh, NC (RGH)

Depart	Arrive	Connection	Duration*	Route	Train (Bus) #
Mon 3:05 pm	Mon 8:57 pm	Direct	5 hr, 52 min	Silver Star	91

Monday, March 17, 2014

From: New Carrollton, MD (NCR)

To: Raleigh, NC (RGH)

Depart	Arrive	Connection	Duration*	Route	Train (Bus) #
Mon 1:44 pm	Mon 8:57 pm	<u>WAS</u>	6 hr, 08 min	<u>Multiple</u>	95/ 91

Monday, March 17, 2014

From: Quantico, VA (QAN)

To: Raleigh, NC (RGH)

Depart	Arrive	Connection	Duration*	Route	Train (Bus) #
Mon 11:39 am	Mon 4:42 pm	Direct	5 hr, 03 min	Carolinian	79
Mon 11:39 am	Mon 8:57 pm	<u>RVR</u>	5 hr, 01 min	<u>Multiple</u>	79/ 91

On Mon, Mar 17, 2014 at 8:37 AM, Vernice Miller-Travis <vmiller-travis@skeo.com> wrote:

Hi folks,

I have spoken to Holly Wilson and Tiffany Reed already this morning and we are looking into Amtrak travel as an alternative to get into Raleigh/Durham some time today/tonight. Because many of us have speaking, moderating or logistical roles it is imperative that we get to North Carolina by tonight (except Charles who doesn't have to be present until Wednesday).

Tiffany is going to check to make sure Amtrak is running south of Washington Union station as southern Maryland and Virginia received more snow than we did in the the D.C. metro area.

Please correct me if the train station I have listed for you is incorrect.

Janet - Alexandria, VA
Jalonne - Mannassas, VA
Leslie - Washington Union Station
Sacoby/Vernice - New Carrollton, MD

Bruce/Steve - Alexandria. VA
Marva/Charles - Washington Union Station

Holly has approved purchasing one-way Amtrak tickets for the moderators/speakers/presenters/logistical folks.

For the others on this list I just wanted to make sure you have the train information as well so you can change your own travel plans for today.

By the way is going to be 70 degrees in Raleigh/Durham on Thursday...yes this Thursday.

Tiffany will keep us all posted about Amtrak as an alternative to get to North Carolina today/tonight.

Fingers crossed that we all are able to travel safely today.

Vernice

--

Vernice Miller-Travis
Community Planning and Revitalization Group
Senior Associate
Skeo Solutions
www.skeo.com
[301-537-2115](tel:301-537-2115)

--

Tiffany Reed
Technical Assistance Specialist
Skeo Solutions
434-975-6700 ext. 277
www.skeo.com
treed@skeo.com

EPA EJ in Permitting Regional Implementation Plan Progress Report
February 2014
DRAFT IN PROGRESS

REGIO N	PERMIT NUMBER	PERMIT TYPES	ACTIVITIES
R1	3	NPDES	<p>Notification in local papers, information session, translation of material and notices, interpretation at meetings, extended public comment period, coordination with co-regulators, convenient location and time of meetings</p> <p>Conducted internal planning session to determine resources for fiscal year and prioritize permits</p>
R2	1	RCRA	Public information meeting with interpretation, translation of materials, coordination with municipality, outreach to media outlets community trusts
R3	1	NPDES	EJSCREEN assessments conducted on seven Region 3 issued water permits that have been proposed for DC. An internal workgroup has been formed and is meeting regularly as we monitor the progress on the proposed permits. The workgroup has met with the District of Columbia, and is meeting with the CAG associated with the first of the permits scheduled for this summer. Planning for the enhanced outreach and community involvement is in progress. We are awaiting feedback from the CAG.
R4	0	NA	R4 has not issued any permits that meet the RIP criteria
R5	4	Title V, UIC, NPDES, TSCA	Early community engagement, developed fact sheet with community input, used communication techniques community values (door knocking), public information session, follow up with tribal community, translation of materials and interpretation at meetings
R6	2	UIC, PSD	Tribal consultation , public notices written in plain language, newspaper and radio broadcast in affected community, extended public comment period, hardcopy of draft permit available in affected community, expanded notification geography and outreach
R7	2 POTENTIAL	NPDES	TBA
R8	4	PSD, NSR	Focused on tribal lands, revise permit condition based community concerns,
R9	11	PSD, TSCA, RCRA, NPDES	<p>Extended public comment period, translation of materials, interpretation at meetings, extra fact sheets based on community concerns, outreach to community-based media, coordinated with other to coincide events with other permits under review, accommodation for hear impaired</p> <p>Conducted health risk study at a site, created Public Involvement Program, reopen a permit to extend public comments and interpretation at new hearing</p>

DRAFT

**Engaging States in EJ Implementation: Preparing States for
Public Rollout of EJSCREEN 2.0
Framework for Discussion
Environmental Justice Committee (March 18, 2014)
*DRAFT IN PROGRESS BY REGION 5***

Upcoming Milestones:

- March 10: Deputy Administrator Briefing on options for launch of EJSCREEN.
- Mid-April to early May: Internal release of EJSCREEN Version 2.0
- Early May: Conclude peer review panel
- October: Public Release of EJSCREEN

Although we cannot directly hand over the tool to states to use before the public release, we have discussed a number of ways of engaging states. These include:

- Creating a packet with materials to describe EJSCREEN's layout, features and widgets, datasets, the EJ index formula, and other relevant information.
- Possibly webinars, PowerPoint presentations, etc.

Key Considerations for Outreach/Preparation Strategy:

- We need to engage states between the internal and the public release to help establish shared understanding between EPA and states on EJ screening for permitting, enforcement and other policy issues, and to build positive relationships overall.
- Many states will be quite unhappy if they aren't engaged until public release; this discontent will spill over into other efforts to engage states, including but not limited to issues related to EJ.
- Some states are forging ahead to build their own EJ screening tools; the sooner we can show them what we've built, the better chance we have of enacting the E-Enterprise principle of 'build once, use many times' with respect to EJ screening.
- Engaging the states in a 'soft rollout' would also be a good way for us to identify blind spots in our communications materials, and other requests, concerns, and feedback that we can expect from the rest of the public.

Developing Outreach/Preparation Strategy

- Inform state senior managers and staff, including EJ, program, legal and technical staff
- Develop Basic Information Packet, Talking Points and Q & As for use by EPA leadership and staff to ensure consistency across programs and regions. Part of this will involve Q & As on key policy issues
- As part of development of Q&As, identify and address key policies issues
- Training: Webinars, other approaches
- Discussions with state leadership and staff about their questions and concerns regarding how EJSCREEN is rolled out and used.
- Basic elements of this strategy can be used for other outreach and education efforts.

Discussion:

- (1) Ideas for other considerations and actions**
- (2) Next steps for developing, finalizing and implementing strategy**

To: Leslie Fields (External)[leslie.fields@sierraclub.org]
From: Lee, Charles
Sent: Thur 2/26/2015 9:36:02 PM
Subject: Meeting Request

Leslie

Can I set up a time to talk with you. We are getting ready to do community and stakeholder engagement on our next EJ strategic plan. I want to do a number of one-on-one meetings with key people, such as yourself, before we proceed. Let me know when would be a good time to meet.

Thanks

Charles Lee
Deputy Associate Administrator for Environmental Justice
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (MC 2201A)
William Jefferson Clinton Building South, Room 2226B
Tel: 202-564-2597
Fax: 202-564-1624

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To: Marianne Engelman Lado[mengelmanlado@earthjustice.org]
From: Lee, Charles
Sent: Fri 1/16/2015 4:23:46 PM
Subject: RE: Thursday the 22nd

Marianne

Meaning to get back to you. Breakfast (or coffee) on 1/22 would be great. How about 7:30 am/8:00 am/8:30 am. The earlier the better. Where are you staying. I can swing by there.

Charles

From: Marianne Engelman Lado [mailto:mengelmanlado@earthjustice.org]
Sent: Friday, January 16, 2015 11:02 AM
To: Lee, Charles
Subject: Thursday the 22nd

Charles:

Just checking in: would breakfast or coffee on the morning of the 22nd work for you? I'm trying to finalize my schedule.

Thanks,

Marianne

Marianne Engelman Lado

Managing Attorney, Northeast Office

Earthjustice

48 Wall Street, 19th Floor

New York, NY 10005

T: 212.845.7393

F: 212.918.1556

earthjustice.org



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To: Marianne Engelman Lado[mengelmanlado@earthjustice.org]
From: Lee, Charles
Sent: Thur 1/15/2015 4:53:06 PM
Subject: RE: Thursday January 22nd

Marianne

Great to hear from you. I would love to get together. Let's figure out a time.

Charles

From: Marianne Engelman Lado [mailto:mengelmanlado@earthjustice.org]
Sent: Monday, January 12, 2015 1:22 PM
To: Lee, Charles
Subject: Thursday January 22nd

Charles,

I'm planning on coming to DC January 21st through 23rd and was hoping to have the chance to touch base. Would you have time for coffee or lunch on Thursday the 22nd?

All the best,

Marianne

Marianne Engelman Lado

Managing Attorney, Northeast Office

Earthjustice

48 Wall Street, 19th Floor

New York, NY 10005

T: 212.845.7393

F: 212.918.1556

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delete the message and any attachments.

To: Marianne Engelman Lado[mengelmanlado@earthjustice.org]
From: Lee, Charles
Sent: Tue 4/1/2014 12:58:45 PM
Subject: RE: Follow Up

That would be great. I know that NYS has developed methodology for identifying disproportionately impacted areas. I have provided Eddie Bautista thoughts on the issue. It would be great to know where NYS landed and how they are being implemented.

Safe travels
Charles

-----Original Message-----

From: Marianne Engelman Lado [mailto:mengelmanlado@earthjustice.org]
Sent: Tuesday, April 01, 2014 7:51 AM
To: Lee, Charles
Subject: RE: Follow Up

Ah. Sorry I won't see you down here. I'll be out in Wallace today and in Chapel Hill tomorrow at UNC.

I don't have a good sense of how the implementation is going, though I could find out more. I was somewhat involved in the commenting process and was part of some of the thinking around the proposal. It's not clear to me how it's working out so far.

Happy to talk next week and perhaps to do a little digging if it'd be helpful.

Good luck with the keynote.

Best,

Marianne

From: Lee, Charles [Lee.Charles@epa.gov]
Sent: Tuesday, April 01, 2014 4:49 AM
To: Marianne Engelman Lado
Subject: RE: Follow Up

Sorry these times won't work. I am in North Carolina this week as well. I am doing the keynote for the Duke Environmental Law and Policy Forum on Friday 4/4. They are doing a symposium on the 20th anniversary of EO 12898. I will be on a plane Thursday at 4. Perhaps next week.

The main thing I wanted your thoughts on was implementation of NYS's Article X Power Plan Siting Law. Has it been successful? What are lessons and challenges.

Thanks much
Charles

-----Original Message-----

From: Marianne Engelman Lado [mailto:mengelmanlado@earthjustice.org]
Sent: Tuesday, April 01, 2014 7:42 AM
To: Lee, Charles
Subject: RE: Follow Up

Definitely.

I'm traveling around North Carolina today. On my way to Wallace. Can it wait until later in the week? I'm open on Thursday at 4 or Friday at 4:30. Do either of those times work?

Good to see you.

Best,

Marianne

From: Lee, Charles [Lee.Charles@epa.gov]
Sent: Tuesday, April 01, 2014 12:19 AM
To: Marianne Engelman Lado
Subject: Follow Up

Marianne

Do you have a few minutes. I would like to talk about a few items. Tell me when is a good time.

Thanks

Charles

To: Marianne Engelman Lado[mengelmanlado@earthjustice.org]
From: Lee, Charles
Sent: Tue 4/1/2014 11:49:48 AM
Subject: RE: Follow Up

Sorry these times won't work. I am in North Carolina this week as well. I am doing the keynote for the Duke Environmental Law and Policy Forum on Friday 4/4. They are doing a symposium on the 20th anniversary of EO 12898. I will be on a plane Thursday at 4. Perhaps next week.

The main thing I wanted your thoughts on was implementation of NYS's Article X Power Plan Siting Law. Has it been successful? What are lessons and challenges.

Thanks much
Charles

-----Original Message-----

From: Marianne Engelman Lado [mailto:mengelmanlado@earthjustice.org]
Sent: Tuesday, April 01, 2014 7:42 AM
To: Lee, Charles
Subject: RE: Follow Up

Definitely.

I'm traveling around North Carolina today. On my way to Wallace. Can it wait until later in the week? I'm open on Thursday at 4 or Friday at 4:30. Do either of those times work?

Good to see you.

Best,

Marianne

From: Lee, Charles [Lee.Charles@epa.gov]
Sent: Tuesday, April 01, 2014 12:19 AM
To: Marianne Engelman Lado
Subject: Follow Up

Marianne

Do you have a few minutes. I would like to talk about a few items. Tell me when is a good time.

Thanks

Charles

To: Marianne Engelman Lado
(mengelmanlado@earthjustice.org)[mengelmanlado@earthjustice.org]
From: Lee, Charles
Sent: Tue 4/1/2014 7:19:35 AM
Subject: Follow Up

Marianne

Do you have a few minutes. I would like to talk about a few items. Tell me when is a good time.

Thanks

Charles

To: ejstrategy[ejstrategy@epa.gov]
From: Rhonda Anderson
Sent: Wed 6/10/2015 5:40:55 PM
Subject: Act without delay to address issues in overburdened communities

Jun 10, 2015

Deputy Associate Assistant Administrator Charles Lee

USEPA, Office of Environmental Justice (2201-A) 1200 Pennsylvania
Avenue, NW
Washington,, DC 20460

Dear Deputy Associate Assistant Administrator Lee,

I am responding to the EPA's request for comments to the Draft EJ 2020 Action Agenda Framework. I appreciate EPA's efforts through Plan EJ 2014 to integrate environmental justice into all its programs and particularly to build environmental justice into enforcement targeting and enforcement cases.

For decades, tribal areas, communities of color, and low-income populations have been experiencing disproportionate impacts of pollution. This pollution affects impacted individual's health and quality of life daily and in the long-term, including children who suffer physical and cognitive development delays due to this pollution. In places like Wayne County, Michigan, a portion of which has been titled "the Epicenter of Asthma Burden" by the Michigan Department of Health, 92 schools lie in communities where children are exposed to air pollution that affects their ability to learn.

I urge you to adopt an additional element under the goal to "Demonstrate progress on outcomes that matter to overburdened communities." Where federal authority exists and state government has failed to address environmental justice issues, the EPA should act without delay to address issues in overburdened communities. An example of this situation already exists in Wayne County Michigan, an area that failed to meet federal minimum standards for sulfur dioxide (SO₂) pollution. There the state put aside an effort to finalize a state implementation plan that, with a few changes, would have brought the region into attainment; instead the state allowed the polluting industries to dictate pollution levels through a draft permit process that provided grossly inadequate SO₂ reductions. The timeline for Michigan to produce a state plan has long passed, and people in the Wayne County continue to suffer.

Thank you for helping ensure that the Environmental Protection Agency achieves real outcomes that matter to overburdened communities. Environmental justice delayed is justice denied.

Sincerely,

Janice Postma

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

To: Lung, Tai[Lung.Tai@epa.gov]
From: Keith Rushing
Sent: Thur 7/30/2015 7:21:21 PM
Subject: RE: User Limit Exceeded

No worries. Thanks for offering it. It's a great tool and we had great attendance, it seems.

From: Lung, Tai [mailto:Lung.Tai@epa.gov]
Sent: Thursday, July 30, 2015 3:14 PM
To: Keith Rushing
Subject: RE: User Limit Exceeded

Thanks for the help setting up this meeting, Keith. Apologies for the technical difficulties at the start.

Tai

Tai C. Lung | U.S. Environmental Protection Agency | OECA| OEJ | Tel 202.566.1296 | Cell 202.255.6201 | lung.tai@epa.gov

From: Keith Rushing [mailto:krushing@earthjustice.org]
Sent: Thursday, July 30, 2015 2:02 PM
To: Lung, Tai
Subject: User Limit Exceeded

Tai,

We're getting a message that the user limit is exceeded.

Keith Rushing

Campaign Press Secretary

1625 Massachusetts Avenue, N.W., Suite 702

Washington, DC 20036-2243

T: 202.797.5236

Cell: Ex. 6 - Personal Privacy

F: 202.667.2356

earthjustice.org

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twitter.com/earthjustice



Because the earth needs a good lawyer

To: Lung, Tai[Lung.Tai@epa.gov]
From: Jonathan J. Smith
Sent: Thur 7/30/2015 6:14:31 PM
Subject: RE: EJScreen Webinar

Thank you, that link is working for me now

Jonathan J. Smith

Earthjustice

212-845-7379 (direct)

From: Lung, Tai [mailto:Lung.Tai@epa.gov]
Sent: Thursday, July 30, 2015 2:12 PM
To: Jonathan J. Smith
Subject: RE: EJScreen Webinar

Please try <https://epa.connectsolutions.com/ejscreentraining2/>

Tai C. Lung | U.S. Environmental Protection Agency | OECA| OEJ | Tel 202.566.1296 | Cell 202.255.6201 | lung.tai@epa.gov

From: Jonathan J. Smith [<mailto:jjsmith@earthjustice.org>]
Sent: Thursday, July 30, 2015 2:03 PM
To: Lung, Tai
Subject: EJScreen Webinar

Hi Lung,

I tried to connect to the Earthjustice EJSCREEN webinar at <https://epa.connectsolutions.com/ejscreenoverview/> but received this message: "The user limit for this meeting or seminar session has been exceeded. Contact your meeting or seminar organizer for assistance."

Please let me know if it's still possible to join the webinar. If not, I'll listen on the phone line.

Thank you,

Jonathan

Jonathan J. Smith

Associate Attorney

Earthjustice Northeast Office

48 Wall Street, 19th Floor

New York, NY 10005

T: 212-845-7379 (direct)

F: 212-918-1556

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To: Lung, Tai[Lung.Tai@epa.gov]
From: Liz Judge
Sent: Thur 7/30/2015 6:11:17 PM
Subject: RE: EJScreen webinar

New link is working! Thank you.

From: Liz Judge
Sent: Thursday, July 30, 2015 11:02 AM
To: 'lung.tai@epa.gov'
Subject: EJScreen webinar

Hi Tai,

When I tried to join the EJScreen webinar through connectsolutions, I received a message saying that the user limit had been exceeded.

Liz

Liz Judge

Media Director

50 California Street, Suite 500

San Francisco, CA 94111

Direct: 415.217.2007

Cell: Ex. 6 - Personal Privacy

Fax: 415.217.2040

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twitter.com/earthjustice



Because the earth needs a good lawyer

To: Lung, Tai[Lung.Tai@epa.gov]
From: Jonathan J. Smith
Sent: Thur 7/30/2015 6:02:49 PM
Subject: EJScreen Webinar

Hi Lung,

I tried to connect to the Earthjustice EJSCREEN webinar at <https://epa.connectsolutions.com/ejscreenoverview/> but received this message: "The user limit for this meeting or seminar session has been exceeded. Contact your meeting or seminar organizer for assistance."

Please let me know if it's still possible to join the webinar. If not, I'll listen on the phone line.

Thank you,

Jonathan

Jonathan J. Smith

Associate Attorney

Earthjustice Northeast Office

48 Wall Street, 19th Floor

New York, NY 10005

T: 212-845-7379 (direct)

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To: Lung, Tai[Lung.Tai@epa.gov]
From: Liz Judge
Sent: Thur 7/30/2015 6:02:18 PM
Subject: EJScreen webinar

Hi Tai,

When I tried to join the EJScreen webinar through connectsolutions, I received a message saying that the user limit had been exceeded.

Liz

Liz Judge

Media Director

50 California Street, Suite 500

San Francisco, CA 94111

Direct: 415.217.2007

Cell Ex. 6 - Personal Privacy

Fax: 415.217.2040

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Because the earth needs a good lawyer

To: Lung, Tai[Lung.Tai@epa.gov]
From: Keith Rushing
Sent: Thur 7/30/2015 6:01:40 PM
Subject: User Limit Exceeded

Tai,

We're getting a message that the user limit is exceeded.

Keith Rushing

Campaign Press Secretary

1625 Massachusetts Avenue, N.W., Suite 702

Washington, DC 20036-2243

T: 202.797.5236

Cell Ex. 6 - Personal Privacy

F: 202.667.2356

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Because the earth needs a good lawyer

To: Lung, Tai[Lung.Tai@epa.gov]
From: Albert Lin
Sent: Thur 7/30/2015 5:56:25 PM
Subject: EJScreen Webinar

Hi Tai,

Can you send me the conference line information for the webinar?

Thank you,

Albert

Albert Lin

Litigation Assistant

Earthjustice Washington, D.C. Office

1625 Massachusetts Avenue, N.W., Suite 702

Washington, DC 20036-2243

T: 202.745.5219

F: 202.667.2356

earthjustice.org



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If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited.

If you think that you have received this email message in error, please notify the sender by reply email and delete the message and any attachments.

To: Lung, Tai[Lung.Tai@epa.gov]
From: Keith Rushing
Sent: Wed 7/1/2015 8:40:29 PM
Subject: RE: EJSCREEN Presentation

Thanks Tai. We'll get an invite out.

From: Lung, Tai [mailto:Lung.Tai@epa.gov]
Sent: Wednesday, July 01, 2015 4:21 PM
To: Keith Rushing
Cc: Emma Cheuse; Queen Martin; Lisa Garcia
Subject: RE: EJSCREEN Presentation

Hey Keith,

It looks like everybody would be available on Thursday, July 30, 2:00 – 3:00. I have included some language below. Let's touch base a week out to coordinate the details. Thanks and talk soon!

Tai

Learn about EJSCREEN, EPA's new environmental justice screening tool. The tool offers powerful data and mapping capabilities that display environmental and demographic information at a high geographic resolution across the entire country. This overview and demonstration will take place online via webinar at:
<https://epa.connectsolutions.com/ejscreenoverview/>.

Tai C. Lung | U.S. Environmental Protection Agency | OECA| OEJ | Tel 202.566.1296 | Cell 202.255.6201 | lung.tai@epa.gov

From: Keith Rushing [mailto:krushing@earthjustice.org]

Sent: Wednesday, July 01, 2015 2:31 PM
To: Lung, Tai
Cc: Emma Cheuse; Queen Martin; Lisa Garcia
Subject: RE: EJSCREEN Presentation

Hi Tai,

We could have the webinar any of the times below on 7/21, 7/28, or 7/30, which are Tuesdays and Thursdays. Let us know what works best for you all and we'll get an invite out to staff.

If you have some boilerplate language you use to explain the webinar that'll help us craft a message for staff.

Thanks!

Keith

Tuesday, 07/21/2015

2:00pm-3:00pm

Thursday, 07/23/2015

3:00pm-4:00pm

Tuesday, 07/28/2015

1:00pm-2:00pm

Thursday, 07/30/2015

2:00pm-4:00pm

From: Lung, Tai [<mailto:Lung.Tai@epa.gov>]
Sent: Wednesday, June 17, 2015 1:34 PM
To: Keith Rushing; Lisa Garcia
Cc: Emma Cheuse; Albert Lin
Subject: RE: EJSCREEN Presentation

Hey Keith,

Doing the presentation via webinar makes it very easy for us. Normally our presentations are 60 – 90 minutes. It really depends on how much of a demonstration you would like and how much time you require for Q & A. Tuesday – Thursday are usually the best days of the week. Thanks and let me know if you have any other questions,

Tai

Tai C. Lung | U.S. Environmental Protection Agency | On detail to: OECA| OEJ | Tel 202.566.1296 | Cell 202.255.6201 | lung.tai@epa.gov

From: Keith Rushing [<mailto:krushing@earthjustice.org>]
Sent: Wednesday, June 17, 2015 1:19 PM
To: Lung, Tai; Lisa Garcia
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Subject: RE: EJSCREEN Presentation

Hi Tai,

Nice to meet you over email! I think a webinar for the EJ Screen would be best so all EJ staff can participate. I'll get back to you with some possible dates and times as soon as possible. How long would you need for the webinar presentation? And are there any specific days or weeks that are ideal? Btw, I'm looping in Albert Lin who may also help coordinate.

Thanks

Keith

From: Lung, Tai [<mailto:Lung.Tai@epa.gov>]
Sent: Wednesday, June 17, 2015 8:16 AM
To: Lisa Garcia; Keith Rushing
Cc: Emma Cheuse
Subject: RE: EJSCREEN Presentation

Thanks, Lisa! We are really relieved to finally get the tool out into the public's hands. Inviting other groups to the presentation would be no problem at all.

Keith, please let me know a timeframe that would be good for your organization. After we get something on the calendar we can work out all the details.

Thanks,

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From: Lisa Garcia [<mailto:lgarcia@earthjustice.org>]
Sent: Tuesday, June 16, 2015 7:33 PM
To: Lung, Tai; Keith Rushing
Cc: Emma Cheuse
Subject: RE: EJSCREEN Presentation

Hi Tai:

Congrats to you and the team for releasing EJ Screen. We would still like the demo- and may be interested in inviting some other groups (just a few).

I am cc'ing Keith Rushing, our savvy press secretary but who is really interesting in learning the tool and has volunteered to help.

Keith- meet Tai,

Tai meet Keith.

Hopefully you two rock stars can get something planned in the near future. Thanks again for doing this!

Ciao, Lisa

From: Lung, Tai [<mailto:Lung.Tai@epa.gov>]
Sent: Monday, June 01, 2015 2:50 PM
To: Lisa Garcia
Subject: EJSCREEN Presentation

Hey Lisa,

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Hope you are enjoying life after EPA. Thanks,

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To: Lung, Tai[Lung.Tai@epa.gov]
Cc: Emma Cheuse[echeuse@earthjustice.org]; Queen Martin[qmartin@earthjustice.org]; Lisa Garcia[lgarcia@earthjustice.org]
From: Keith Rushing
Sent: Wed 7/1/2015 6:31:08 PM
Subject: RE: EJSCREEN Presentation

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To: Keith Rushing[krushing@earthjustice.org]
Cc: Lung, Tai[Lung.Tai@epa.gov]
From: Lisa Garcia
Sent: Wed 7/29/2015 7:34:43 PM
Subject: Re: Invitation: EJSCREEN Webinar- July 30 at 2pm

Thanks Tai!

Sent from my iPhone

> On Jul 29, 2015, at 3:20 PM, "Keith Rushing" <krushing@earthjustice.org> wrote:

>

> Thanks Tai. I've forwarded the info and attachments to the participants. Lisa, Tai was asking if there's anything we'd like presenters to cover. Do you have any thoughts?

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> From: Lung, Tai [mailto:Lung.Tai@epa.gov]

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> To: Keith Rushing

> Subject: RE: Invitation: EJSCREEN Webinar- July 30 at 2pm

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> Keith,

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> Attached is the presentation that Matthew will be speaking from tomorrow as well as a fact sheet on EJSCREEN. You can share this with participants in advance as background. Also I will open a conference line as users sometimes have difficulties with the Adobe Connect audio. The conference line is: **Ex. 6 - Personal Privacy** Don't forget to also give all the users the Adobe Connect address which is: <https://epa.connectsolutions.com/ejscreenoverview/>. Finally please let participants know if they have any issues connecting to connect me at lung.tai@epa.gov. I will be monitoring email to ensure that everyone gets connected.

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>

> Thanks and I look forward to the presentation tomorrow!

>

> Tai

>

> Tai C. Lung | U.S. Environmental Protection Agency | OECA| OEJ | Tel 202.566.1296 | Cell
Ex. 6 - Personal Privacy | lung.tai@epa.gov

>

> -----Original Message-----

> From: Keith Rushing [mailto:krushing@earthjustice.org]

> Sent: Tuesday, July 28, 2015 5:22 PM

> To: Lung, Tai

> Cc: Jennifer Allen

> Subject: RE: Invitation: EJSCREEN Webinar- July 30 at 2pm

>

> We can accommodate people from their computers. So I think we're all set.

>

> -----Original Message-----

> From: Lung, Tai [mailto:Lung.Tai@epa.gov]

> Sent: Tuesday, July 28, 2015 4:12 PM

> To: Keith Rushing

> Cc: Jennifer Allen

> Subject: RE: Invitation: EJSCREEN Webinar- July 30 at 2pm

>
> Hey Keith,
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> We are not really set up for someone who is hard of hearing to participate. I would say that I can ask the presenters to speak up but we are not prepared to close caption the webinar.
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> It is great to hear that you have so many folks joining the webinar. Were all the DC Earth Justice staff planning to meet in one room for the presentation or is everybody just going to participate from their desks? We might be able to make it over if you have a room set up that we can run the webinar from. However the sound tends to be better when we present from here (in an office rather than a conference room).

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> Tai
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> Tai C. Lung | U.S. Environmental Protection Agency | OECA| OEJ | Tel 202.566.1296 | Cell
Ex. 6 - Personal Privacy | lung.tai@epa.gov

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> -----Original Message-----
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> To: Lung, Tai
> Cc: Jennifer Allen
> Subject: RE: Invitation: EJSCREEN Webinar- July 30 at 2pm

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> Hi Tai,
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> We received a call from someone who wants to invite a partner who's interested in the webinar. The person is hard of hearing. Will there be accessibility for people who are hearing impaired? Jennifer Allen from our donor relations department, who spoke with the person, is cc'd. btw, more than 40 people have RSVP'd so far.

>
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> From: Lung, Tai [mailto:Lung.Tai@epa.gov]
> Sent: Monday, July 27, 2015 8:09 AM
> To: Keith Rushing
> Subject: RE: Invitation: EJSCREEN Webinar- July 30 at 2pm

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> That is correct, Keith. No password or RSVP is necessary.

>
> Tai
>

> Tai C. Lung | U.S. Environmental Protection Agency | OECA| OEJ | Tel 202.566.1296 | Cell
Ex. 6 - Personal Privacy | lung.tai@epa.gov

>
> -----Original Message-----
> From: Keith Rushing [mailto:krushing@earthjustice.org]
> Sent: Friday, July 24, 2015 10:32 AM
> To: Lung, Tai
> Subject: RE: Invitation: EJSCREEN Webinar- July 30 at 2pm

>
> Tai,
>
> So if people want to participate, do they only need to enter as a guest and put in their name? I just want to make sure I'm clear that they don't need to RSVP or a password to participate.

>

> Thanks,
>
> Keith
>
> -----Original Message-----
> From: Lung, Tai [mailto:Lung.Tai@epa.gov]
> Sent: Wednesday, July 22, 2015 8:06 AM
> To: Keith Rushing
> Subject: RE: Invitation: EJSCREEN Webinar- July 30 at 2pm
>
> Hey Keith,
>
> The link to the webinar room is <https://epa.connectsolutions.com/ejscreenoverview/>. Please let attendees know to enter the webinar room as a guest, input their name and hit 'enter room'. Adobe Connect may require them to download a plug-in, so ask them to enter the room five minutes early to ensure that they can join us on time. I will get you the presentation and full details early next week. Thanks!
>
> Tai
>
> Tai C. Lung | U.S. Environmental Protection Agency | OECA| OEJ | Tel 202.566.1296 | Cell
Ex. 6 - Personal Privacy | lung.tai@epa.gov
>
> -----Original Message-----
> From: Keith Rushing [mailto:krushing@earthjustice.org]
> Sent: Tuesday, July 21, 2015 7:30 PM
> To: Lung, Tai
> Subject: FW: Invitation: EJSCREEN Webinar- July 30 at 2pm
>
> Hi Tai,
>
> Is there a link for the webinar so that people will know how to rsvp or access it on July 30? We just send the invite around. But we'll follow up with an outlook invite and link when it's ready.
>
> -----Original Message-----
> From: Lisa Garcia
> Sent: Tuesday, July 21, 2015 6:33 AM
> To: Earthjustice
> Subject: Invitation: EJSCREEN Webinar- July 30 at 2pm
>
> Forwarding an invitation to a Webinar hosted by EPA and Earthjustice on EJSCREEN:
> **Please forward**
>
> _____
> You're Invited!
>
> WHAT: The EPA is providing a webinar--specifically for Earthjustice staff, clients and our allies on its Environmental Justice Screening tool: EJSCREEN.
>
> WHEN: Webinar will happen at 2 pm EST/11 am PST on Thursday, July 30.
>
> Please feel free to send out to our allies and friends. We will provide a link and info about how to access to the tool later this month.
>
>
> BACKGROUND: EJScreen was created to offer the public and community groups national

environmental justice screening and mapping capability. The EPA developed the tool following years of advocacy from environmental justice groups to help communities understand environmental hazards, pollution exposure and community health on the local level.

> EJScreen was also created to increase understanding of the disparate exposure to environmental harms faced by communities of color, indigenous communities and low-income communities and aid in decision making to reduce harm and promote healthier communities. The tool can be used to assess greater risk of exposure to pollution based on 12 environmental indicators that measure potential exposure, hazard/risk and proximity by incorporating GIS, environmental and census data.

> The EPA is involved in a stakeholder engagement period over the next six months. Afterwards, the agency will collect feedback on the datasets and design of the tool - as well as how it could be further enhanced - and release a revised version in 2016.

>

> Earthjustice VP of Healthy Communities Lisa Garcia worked to develop the tool, under EPA's Plan EJ 2014. And Earthjustice has joined with environmental justice, civil rights and community stakeholder groups for immediate public access to this important tool.

>

> Please join if you're interested! More information is coming soon about how to participate.

>

>

>

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To: Lung, Tai[Lung.Tai@epa.gov]
Cc: Lisa Garcia[lgarcia@earthjustice.org]
From: Keith Rushing
Sent: Wed 7/29/2015 7:20:31 PM
Subject: RE: Invitation: EJSCREEN Webinar- July 30 at 2pm

Thanks Tai. I've forwarded the info and attachments to the participants. Lisa, Tai was asking if there's anything we'd like presenters to cover. Do you have any thoughts?

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For the presentation tomorrow, we will start with an overview of the tool , followed by a quick demo, and lastly we will take questions. Let me know if there is anything else specific you would like us to cover.

Thanks and I look forward to the presentation tomorrow!

Tai

Tai C. Lung | U.S. Environmental Protection Agency | OECA| OEJ | Tel 202.566.1296 | Cell 202.255.6201
| lung.tai@epa.gov

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Cc: Jennifer Allen
Subject: RE: Invitation: EJSCREEN Webinar- July 30 at 2pm

We can accommodate people from their computers. So I think we're all set.

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From: Lung, Tai [mailto:Lung.Tai@epa.gov]
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To: Keith Rushing
Cc: Jennifer Allen
Subject: RE: Invitation: EJSCREEN Webinar- July 30 at 2pm

Hey Keith,

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From: Keith Rushing [mailto:krushing@earthjustice.org]
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To: Lung, Tai
Cc: Jennifer Allen
Subject: RE: Invitation: EJSCREEN Webinar- July 30 at 2pm

Hi Tai,

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WHEN: Webinar will happen at 2 pm EST/11 am PST on Thursday, July 30.

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Sent: Friday, July 24, 2015 10:32 AM
To: Lung, Tai
Subject: RE: Invitation: EJSCREEN Webinar- July 30 at 2pm

Tai,

So if people want to participate, do they only need to enter as a guest and put in their name? I just want to make sure I'm clear that they don't need to RSVP or a password to participate.

Thanks,

Keith

-----Original Message-----

From: Lung, Tai [mailto:Lung.Tai@epa.gov]
Sent: Wednesday, July 22, 2015 8:06 AM
To: Keith Rushing
Subject: RE: Invitation: EJSCREEN Webinar- July 30 at 2pm

Hey Keith,

The link to the webinar room is <https://epa.connectsolutions.com/ejscreenoverview/>. Please let attendees know to enter the webinar room as a guest, input their name and hit 'enter room'. Adobe Connect may require them to download a plug-in, so ask them to enter the room five minutes early to ensure that they can join us on time. I will get you the presentation and full details early next week. Thanks!

Tai

Tai C. Lung | U.S. Environmental Protection Agency | OECA| OEJ | Tel 202.566.1296 | Cell 202.255.6201
| lung.tai@epa.gov

-----Original Message-----

From: Keith Rushing [mailto:krushing@earthjustice.org]
Sent: Tuesday, July 21, 2015 7:30 PM
To: Lung, Tai
Subject: FW: Invitation: EJSCREEN Webinar- July 30 at 2pm

Hi Tai,

Is there a link for the webinar so that people will know how to RSVP or access it on July 30? We just send the invite around. But we'll follow up with an outlook invite and link when it's ready.

-----Original Message-----

From: Lisa Garcia
Sent: Tuesday, July 21, 2015 6:33 AM
To: Earthjustice
Subject: Invitation: EJSCREEN Webinar- July 30 at 2pm

Forwarding an invitation to a Webinar hosted by EPA and Earthjustice on EJSCREEN:
Please forward